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DURING THE

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1864--'65.

IN FIFTEEN VOLUMES.

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1891

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MESSAGE
OF THE
PRESIDENT OF THE UNITED STATES,
AND
ACCOMPANYING DOCUMENTS,
TO THE
TWO HOUSES OF CONGRESS,
AT
THE COMMENCEMENT OF THE SECOND SESSION
OF
THE THIRTY-EIGHTH CONGRESS.

PART I.

WASHINGTON:
GOVERNMENT PRINTING OFFICE
1864.

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PART I.

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WASHINGTON:

1864.

MESSAGE.

Fellow-citizens of the Senate and House of Representatives :

Again the blessings of health and abundant harvests claim our profoundest gratitude to Almighty God.

The condition of our foreign affairs is reasonably satisfactory.

Mexico continues to be a theatre of civil war. While our political relations with that country have undergone no change, we have, at the same time, strictly maintained neutrality between the belligerents.

At the request of the states of Costa Rica and Nicaragua, a competent engineer has been authorized to make a survey of the river San Juan and the port of San Juan. It is a source of much satisfaction that the difficulties which for a moment excited some political apprehensions, and caused a closing of the inter-oceanic transit route, have been amicably adjusted, and that there is a good prospect that the route will soon be reopened with an increase of capacity and adaptation. We could not exaggerate either the commercial or the political importance of that great improvement.

It would be doing injustice to an important South American state not to acknowledge the directness, frankness, and cordiality with which the United States of Colombia have entered into intimate relations with this government. A claims convention has been constituted to complete the unfinished work of the one which closed its session in 1861.

The new liberal constitution of Venezuela having gone into effect with the universal acquiescence of the people, the government under it has been recognized, and diplomatic intercourse with it has opened in a cordial and friendly spirit. The long-deferred Aves Island claim has been satisfactorily paid and discharged.

Mutual payments have been made of the claims awarded by the late joint commission for the settlement of claims between the United States and Peru. An earnest and cordial friendship continues to exist between the two countries, and such efforts as were in my power have been used to remove misunderstanding and avert a threatened war between Peru and Spain.

Our relations are of the most friendly nature with Chili, the Argentine Republic, Bolivia, Costa Rica, Paraguay, San Salvador, and Hayti.

During the past year no differences of any kind have arisen with any of those republics, and, on the other hand, their sympathies with the United States are constantly expressed with cordiality and earnestness.

The claim arising from the seizure of the cargo of the brig *Macedonian* in 1821 has been paid in full by the government of Chili.

Civil war continues in the Spanish part of San Domingo, apparently without prospect of an early close.

Official correspondence has been freely opened with Liberia, and it gives us a pleasing view of social and political progress in that republic. It may be expected to derive new vigor from American influence, improved by the rapid disappearance of slavery in the United States.

I solicit your authority to furnish to the republic a gunboat at moderate cost, to be reimbursed to the United States by instalments. Such a vessel is needed for the safety of that state against the native African races; and in Liberian hands it would be more effective in arresting the African slave trade than a squadron in our own hands. The possession of the least organized naval force would stimulate a generous ambition in the republic, and the confidence which we should manifest by furnishing it would win forbearance and favor towards the colony from all civilized nations.

The proposed overland telegraph between America and Europe, by the way of Behring's Straits and Asiatic Russia, which was sanctioned by Congress at the last session, has been undertaken, under very favorable circumstances, by an association of American citizens, with the cordial good-will and support as well of this government as of those of Great Britain and Russia. Assurances have been received from most of the South American states of their high appreciation of the enterprise, and their readiness to co-operate in constructing lines tributary to that world-encircling communication. I learn, with much satisfaction, that the noble design of a telegraphic communication between the eastern coast of America and Great Britain has been renewed with full expectation of its early accomplishment.

Thus it is hoped, that with the return of domestic peace the country will be able to resume with energy and advantage its former high career of commerce and civilization.

Our very popular and estimable representative in Egypt died in April last. An unpleasant altercation which arose between the temporary incumbent of the office and the government of the Pacha resulted in a suspension of intercourse. The evil was promptly corrected on the arrival of the successor in the consulate, and our relations with Egypt, as well as our relations with the Barbary powers, are entirely satisfactory.

The rebellion which has so long been flagrant in China has at last been suppressed, with the co-operating good offices of this government, and of the other western commercial states. The judicial consular establishment there has become very difficult and onerous, and it will need legislative revision to adapt it to the extension of our commerce, and to the more intimate intercourse which has been instituted with the government and people of that vast empire. China seems to be accepting with hearty good-will the conventional laws which regulate commercial and social intercourse among the western nations.

Owing to the peculiar situation of Japan, and the anomalous form of its

government, the action of that empire in performing treaty stipulations is inconstant and capricious. Nevertheless, good progress has been effected by the western powers, moving with enlightened concert. Our own pecuniary claims have been allowed, or put in course of settlement, and the inland sea has been reopened to commerce. There is reason also to believe that these proceedings have increased rather than diminished the friendship of Japan towards the United States.

The ports of Norfolk, Fernandina, and Pensacola have been opened by proclamation. It is hoped that foreign merchants will now consider whether it is not safer and more profitable to themselves, as well as just to the United States, to resort to these and other open ports, than it is to pursue, through many hazards, and at vast cost, a contraband trade with other ports which are closed, if not by actual military occupation, at least by a lawful and effective blockade.

For myself, I have no doubt of the power and duty of the Executive, under the law of nations, to exclude enemies of the human race from an asylum in the United States. If Congress should think that proceedings in such cases lack the authority of law, or ought to be further regulated by it, I recommend that provision be made for effectually preventing foreign slave traders from acquiring domicile and facilities for their criminal occupation in our country.

It is possible that, if it were a new and open question, the maritime powers, with the lights they now enjoy, would not concede the privileges of a naval belligerent to the insurgents of the United States, destitute, as they are, and always have been, equally of ships-of-war and of ports and harbors. Disloyal emissaries have been neither less assiduous nor more successful during the last year than they were before that time in their efforts, under favor of that privilege, to embroil our country in foreign wars. The desire and determination of the governments of the maritime states to defeat that design are believed to be as sincere as, and cannot be more earnest than, our own. Nevertheless, unforeseen political difficulties have arisen, especially in Brazilian and British ports, and on the northern boundary of the United States, which have required, and are likely to continue to require, the practice of constant vigilance, and a just and conciliatory spirit on the part of the United States as well as of the nations concerned and their governments.

Commissioners have been appointed, under the treaty with Great Britain, on the adjustment of the claims of the Hudson's Bay and Puget's Sound Agricultural Companies, in Oregon, and are now proceeding to the execution of the trust assigned to them.

In view of the insecurity of life and property in the region adjacent to the Canadian border, by reason of recent assaults and depredations committed by inimical and desperate persons, who are harbored there, it has been thought proper to give notice that after the expiration of six months, the period conditionally stipulated in the existing arrangement with Great Britain, the United States must hold themselves at liberty to increase their naval armament upon the lakes, if they shall find that proceeding necessary. The condition of the border will necessarily come into consideration in connection with the question of cou-

tinuing or modifying the rights of transit from Canada through the United States, as well as the regulation of imposts, which were temporarily established by the reciprocity treaty of the 5th June, 1854.

I desire, however, to be understood, while making this statement, that the colonial authorities of Canada are not deemed to be intentionally unjust or unfriendly towards the United States; but, on the contrary, there is every reason to expect that, with the approval of the imperial government, they will take the necessary measures to prevent new incursions across the border.

The act passed at the last session for the encouragement of emigration has, so far as was possible, been put into operation. It seems to need amendment which will enable the officers of the government to prevent the practice of frauds against the immigrants while on their way, and on their arrival in the ports, so as to secure them here a free choice of avocations and places of settlement. A liberal disposition towards this great national policy is manifested by most of the European states, and ought to be reciprocated on our part by giving the immigrants effective national protection. I regard our emigrants as one of the principal replenishing streams which are appointed by Providence to repair the ravages of internal war, and its wastes of national strength and health. All that is necessary is to secure the flow of that stream in its present fullness, and to that end the government must, in every way, make it manifest that it neither needs nor designs to impose involuntary military service upon those who come from other lands to cast their lot in our country.

The financial affairs of the government have been successfully administered during the last year. The legislation of the last session of Congress has beneficially affected the revenues, although sufficient time has not yet elapsed to experience the full effect of several of the provisions of the acts of Congress imposing increased taxation.

The receipts during the year, from all sources, upon the basis of warrants signed by the Secretary of the Treasury, including loans and the balance in the treasury on the first day of July, 1863, were \$1,394,796,007 62; and the aggregate disbursements, upon the same basis, were \$1,298,056,101 89, leaving a balance in the treasury, as shown by warrants, of \$96,739,905 73.

Deduct from these amounts the amount of the principal of the public debt redeemed, and the amount of issues in substitution therefor, and the actual cash operations of the treasury were: receipts, \$84,076,646 57; disbursements, \$865,234,087 86; which leaves a cash balance in the treasury of \$18,842,558 71.

Of the receipts, there were derived from customs \$102,316,152 99; from lands, \$588,333 29; from direct taxes, \$175,648 96; from internal revenue, \$109,741,134 10; from miscellaneous sources, \$47,511,448 10; and from loans applied to actual expenditures, including former balance, \$623,443,929 13.

There were disbursed, for the civil service, \$27,505,599 46; for pensions and Indians, \$7,517,930 97; for the War Department, \$690,791,842 97; for the Navy Department, \$85,733,292 77; for interest of the public debt, \$53,685,421 69—making an aggregate of \$865,234,087 86, and leaving a balance in the treasury of \$18,842,558 71, as before stated.

For the actual receipts and disbursements for the first quarter, and the estimated receipts and disbursements for the three remaining quarters of the current fiscal year, and the general operations of the treasury in detail, I refer you to the report of the Secretary of the Treasury. I concur with him in the opinion that the proportion of moneys required to meet the expenses consequent upon the war derived from taxation should be still further increased; and I earnestly invite your attention to this subject, to the end that there may be such additional legislation as shall be required to meet the just expectations of the Secretary.

The public debt on the first day of July last, as appears by the books of the treasury, amounted to \$1,740,690,489 49. Probably, should the war continue for another year, that amount may be increased by not far from five hundred millions. Held as it is, for the most part, by our own people, it has become a substantial branch of national, though private, property. For obvious reasons, the more nearly this property can be distributed among all the people the better. To favor such general distribution, greater inducements to become owners might, perhaps, with good effect, and without injury, be presented to persons of limited means. With this view, I suggest whether it might not be both competent and expedient for Congress to provide that a limited amount of some future issue of public securities might be held by any bona fide purchaser exempt from taxation, and from seizure for debt, under such restrictions and limitations as might be necessary to guard against abuse of so important a privilege. This would enable every prudent person to set aside a small annuity against a possible day of want.

Privileges like these would render the possession of such securities, to the amount limited, most desirable to every person of small means who might be able to save enough for the purpose. The great advantage of citizens being creditors as well as debtors, with relation to the public debt, is obvious. Men readily perceive that they cannot be much oppressed by a debt which they owe to themselves.

The public debt on the first day of July last, although somewhat exceeding the estimate of the Secretary of the Treasury made to Congress at the commencement of the last session, falls short of the estimate of that officer made in the preceding December, as to its probable amount at the beginning of this year, by the sum of \$3,995,097 31. This fact exhibits a satisfactory condition and conduct of the operations of the treasury.

The national banking system is proving to be acceptable to capitalists and to the people. On the twenty-fifth day of November five hundred and eighty-four national banks had been organized, a considerable number of which were conversions from State banks. Changes from State systems to the national system are rapidly taking place, and it is hoped that, very soon, there will be in the United States no banks of issue not authorized by Congress, and no bank-note circulation not secured by the government. That the government and the people will derive great benefit from this change in the banking systems of the country can hardly be questioned. The national system will create a reliable and permanent influence in support of the national

credit, and protect the people against losses in the use of paper money. Whether or not any further legislation is advisable for the suppression of State bank issues, it will be for Congress to determine. It seems quite clear that the treasury cannot be satisfactorily conducted unless the government can exercise a restraining power over the bank-note circulation of the country.

The report of the Secretary of War and the accompanying documents will detail the campaigns of the armies in the field since the date of the last annual message, and also the operations of the several administrative bureaus of the War Department during the last year. It will also specify the measures deemed essential for the national defence, and to keep up and supply the requisite military force.

The report of the Secretary of the Navy presents a comprehensive and satisfactory exhibit of the affairs of that department and of the naval service. It is a subject of congratulation and laudable pride to our countrymen that a navy of such vast proportions has been organized in so brief a period, and conducted with so much efficiency and success.

The general exhibit of the navy, including vessels under construction on the 1st of December, 1864, shows a total of 671 vessels, carrying 4,610 guns, and of 510,396 tons, being an actual increase during the year, over and above all losses by shipwreck or in battle, of 83 vessels, 167 guns, and 42,427 tons.

The total number of men at this time in the naval service, including officers, is about 51,000.

There have been captured by the navy during the year 324 vessels, and the whole number of naval captures since hostilities commenced is 1,379, of which 267 are steamers.

The gross proceeds arising from the sale of condemned prize property, thus far reported, amount to \$14,396,250 51. A large amount of such proceeds is still under adjudication and yet to be reported.

The total expenditure of the Navy Department of every description, including the cost of the immense squadrons that have been called into existence from the 4th of March, 1861, to the 1st of November, 1864, are \$238,647,262 35.

Your favorable consideration is invited to the various recommendations of the Secretary of the Navy, especially in regard to a navy yard and suitable establishment for the construction and repair of iron vessels, and the machinery and armature for our ships, to which reference was made in my last annual message.

Your attention is also invited to the views expressed in the report in relation to the legislation of Congress at its last session in respect to prize on our inland waters.

I cordially concur in the recommendation of the Secretary as to the propriety of creating the new rank of vice-admiral in our naval service.

Your attention is invited to the report of the Postmaster General for a detailed account of the operations and financial condition of the Post Office Department.

The postal revenues for the year ending June 30, 1864, amounted to

\$12,438,253 78, and the expenditures to \$12,644,786 20; the excess of expenditures over receipts being \$206,652 42.

The views presented by the Postmaster General on the subject of special grants by the government in aid of the establishment of new lines of ocean mail steamships, and the policy he recommends for the development of increased commercial intercourse with adjacent and neighboring countries, should receive the careful consideration of Congress.

It is of noteworthy interest that the steady expansion of population, improvement, and governmental institutions over the new and unoccupied portions of our country have scarcely been checked, much less impeded or destroyed, by our great civil war, which at first glance would seem to have absorbed almost the entire energies of the nation.

The organization and admission of the State of Nevada has been completed in conformity with law, and thus our excellent system is firmly established in the mountains, which once seemed a barren and uninhabitable waste between the Atlantic States and those which have grown up on the coast of the Pacific ocean.

The Territories of the Union are generally in a condition of prosperity and rapid growth. Idaho and Montana, by reason of their great distance and the interruption of communication with them by Indian hostilities, have been only partially organized; but it is understood that these difficulties are about to disappear, which will permit their governments, like those of the others, to go into speedy and full operation.

As intimately connected with, and promotive of, this material growth of the nation, I ask the attention of Congress to the valuable information and important recommendations relating to the public lands, Indian affairs, the Pacific railroad, and mineral discoveries contained in the report of the Secretary of the Interior, which is herewith transmitted, and which report also embraces the subjects of patents, pensions, and other topics of public interest pertaining to his department.

The quantity of public land disposed of during the five quarters ending on the 30th of September last was 4,221,342 acres, of which 1,538,614 acres were entered under the homestead law. The remainder was located with military land warrants, agricultural scrip certified to States for railroads, and sold for cash. The cash received from sales and location fees was \$1,019,446.

The income from sales during the fiscal year, ending June 30, 1864, was \$678,007.21, against \$136,077.95 received during the preceding year. The aggregate number of acres surveyed during the year has been equal to the quantity disposed of; and there is open to settlement about 133,000,000 acres of surveyed land.

The great enterprise of connecting the Atlantic with the Pacific States by railways and telegraph lines has been entered upon with a vigor that gives assurance of success, notwithstanding the embarrassments arising from the prevailing high prices of materials and labor. The route of the main line of the

road has been definitely located for one hundred miles westward from the initial point at Omaha City, Nebraska, and a preliminary location of the Pacific railroad of California has been made from Sacramento eastward to the great bend of the Truckee river, in Nevada.

Numerous discoveries of gold, silver, and cinnabar mines have been added to the many heretofore known, and the country occupied by the Sierra Nevada and Rocky mountains, and the subordinate ranges, now teems with enterprising labor, which is richly remunerative. It is believed that the product of the mines of precious metals in that region has, during the year, reached, if not exceeded, one hundred millions in value.

It was recommended in my last annual message that our Indian system be remodelled. Congress, at its last session, acting upon the recommendation, did provide for reorganizing the system in California, and it is believed that under the present organization the management of the Indians there will be attended with reasonable success. Much yet remains to be done to provide for the proper government of the Indians in other parts of the country to render it secure for the advancing settler, and to provide for the welfare of the Indian. The Secretary reiterates his recommendations, and to them the attention of Congress is invited.

The liberal provisions made by Congress for paying pensions to invalid soldiers and sailors of the republic, and to the widows, orphans, and dependent mothers of those who have fallen in battle, or died of disease contracted, or of wounds received in the service of their country, have been diligently administered. There have been added to the pension rolls, during the year ending the 30th day of June last, the names of 16,770 invalid soldiers, and of 271 disabled seaman, making the present number of army invalid pensioners 22,767, and of navy invalid pensioners 712.

Of widows, orphans, and mothers, 22,198 have been placed on the army pension rolls, and 248 on the navy rolls. The present number of army pensioners of this class is 25,433, and of navy pensioners 793. At the beginning of the year the number of revolutionary pensioners was 1,430; only twelve of them were soldiers, of whom seven have since died. The remainder are those who, under the law, receive pensions because of relationship to revolutionary soldiers. During the year ending the 30th of June, 1864, \$4,504,616 92 have been paid to pensioners of all classes.

I cheerfully commend to your continued patronage the benevolent institutions of the District of Columbia which have hitherto been established or fostered by Congress, and respectfully refer, for information concerning them, and in relation to the Washington aqueduct, the Capitol and other matters of local interest, to the report of the Secretary.

The Agricultural Department, under the supervision of its present energetic and faithful head, is rapidly commending itself to the great and vital interest it was created to advance. It is peculiarly the people's department, in which they feel more directly concerned than in any other. I commend it to the continued attention and fostering care of Congress.

The war continues. Since the last annual message all the important lines

and positions then occupied by our forces have been maintained, and our arms have steadily advanced; thus liberating the regions left in rear, so that Missouri, Kentucky, Tennessee, and parts of other States have again produced reasonably fair crops.

The most remarkable feature in the military operations of the year is General Sherman's attempted march of three hundred miles directly through the insurgent region. It tends to show a great increase of our relative strength that our general-in-chief should feel able to confront and hold in check every active force of the enemy, and yet to detach a well-appointed large army to move on such an expedition. The result not yet being known, conjecture in regard to it is not here indulged.

Important movements have also occurred during the year to the effect of moulding society for durability in the Union. Although short of complete success, it is much in the right direction, that twelve thousand citizens in each of the States of Arkansas and Louisiana have organized loyal State governments, with free constitutions, and are earnestly struggling to maintain and administer them. The movements in the same direction, more extensive, though less definite, in Missouri, Kentucky, and Tennessee, should not be overlooked. But Maryland presents the example of complete success. Maryland is secure to Liberty and Union for all the future. The genius of rebellion will no more claim Maryland. Like another foul spirit, being driven out, it may seek to tear her, but it will woo her no more.

At the last session of Congress a proposed amendment of the Constitution, abolishing slavery throughout the United States, passed the Senate, but failed for lack of the requisite two-thirds vote in the House of Representatives. Although the present is the same Congress, and nearly the same members, and without questioning the wisdom or patriotism of those who stood in opposition, I venture to recommend the reconsideration and passage of the measure at the present session. Of course the abstract question is not changed; but an intervening election shows, almost certainly, that the next Congress will pass the measure if this does not. Hence there is only a question of *time* as to when the proposed amendment will go to the States for their action. And as it is to so go, at all events, may we not agree that the sooner the better? It is not claimed that the election has imposed a duty on members to change their views or their votes, any further than, as an additional element to be considered, their judgment may be affected by it. It is the voice of the people now, for the first time, heard upon the question. In a great national crisis, like ours, unanimity of action among those seeking a common end is very desirable—almost indispensable. And yet no approach to such unanimity is attainable, unless some deference shall be paid to the will of the majority, simply because it is the will of the majority. In this case the common end is the maintenance of the Union; and, among the means to secure that end, such will, through the election, is most clearly declared in favor of such constitutional amendment.

The most reliable indication of public purpose in this country is derived through our popular elections. Judging by the recent canvass and its result, the purpose of the people, within the loyal States, to maintain the integrity of the

Union, was never more firm, nor more nearly unanimous, than now. The extraordinary calmness and good order with which the millions of voters met and mingled at the polls give strong assurance of this. Not only all those who supported the Union ticket, so called, but a great majority of the opposing party also, may be fairly claimed to entertain, and to be actuated by, the same purpose. It is an unanswerable argument to this effect, that no candidate for any office whatever, high or low, has ventured to seek votes on the avowal that he was for giving up the Union. There have been much impugning of motives, and much heated controversy as to the proper means and best mode of advancing the Union cause; but on the distinct issue of Union or no Union the politicians have shown their instinctive knowledge that there is no diversity among the people. In affording the people the fair opportunity of showing, one to another and to the world, this firmness and unanimity of purpose, the election has been of vast value to the national cause.

The election has exhibited another fact not less valuable to be known—the fact that we do not approach exhaustion in the most important branch of national resources—that of living men. While it is melancholy to reflect that the war has filled so many graves, and carried mourning to so many hearts, it is some relief to know that, compared with the surviving, the fallen have been so few. While corps, and divisions, and brigades, and regiments have formed, and fought, and dwindled, and gone out of existence, a great majority of the men who composed them are still living. The same is true of the naval service. The election returns prove this. So many voters could not else be found. The States regularly holding elections, both now and four years ago, to wit, California, Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Vermont, West Virginia, and Wisconsin, cast 3,982,011 votes now, against 3,870,222 cast then, showing an aggregate now of 3,982,011. To this is to be added 33,762 cast now in the new States of Kansas and Nevada, which States did not vote in 1860, thus swelling the aggregate to 4,015,773 and the net increase during the three years and a half of war to 145,551. A table is appended showing particulars. To this again should be added the number of all soldiers in the field from Massachusetts, Rhode Island, New Jersey, Delaware, Indiana, Illinois, and California, who, by the laws of those States, could not vote away from their homes, and which number cannot be less than 90,000. Nor yet is this all. The number in organized Territories is triple now what it was four years ago, while thousands, white and black, join us as the national arms press back the insurgent lines. So much is shown, affirmatively and negatively, by the election. It is not material to inquire *how* the increase has been produced, or to show that it would have been *greater* but for the war, which is probably true. The important fact remains demonstrated, that we have *more men now* than we had when the war *began*; that we are not exhausted, nor in process of exhaustion; that we are *gaining* strength, and may, if need be, maintain the contest indefinitely. This as to men. Material resources are now more complete and abundant than ever

The national resources, then, are unexhausted, and, as we believe, inexhaustible. The public purpose to re-establish and maintain the national authority is unchanged, and, as we believe, unchangeable. The manner of continuing the effort remains to choose. On careful consideration of all the evidence accessible, it seems to me that no attempt at negotiation with the insurgent leader could result in any good. He would accept nothing short of severance of the Union—precisely what we will not and cannot give. His declarations to this effect are explicit and oft-repeated. He does not attempt to deceive us. He affords us no excuse to deceive ourselves. He cannot voluntarily reaccept the Union; we cannot voluntarily yield it. Between him and us the issue is distinct, simple, and inflexible. It is an issue which can only be tried by war, and decided by victory. If we yield, we are beaten; if the southern people fail him, he is beaten. Either way, it would be the victory and defeat following war. What is true, however of him who heads the insurgent cause is not necessarily true of those who follow. Although he cannot reaccept the Union, they can. Some of them, we know, already desire peace and reunion. The number of such may increase. They can, at any moment, have peace simply by laying down their arms and submitting to the national authority under the Constitution. After so much, the government could not, if it would, maintain war against them. The loyal people would not sustain or allow it. If questions should remain, we would adjust them by the peaceful means of legislation, conference, courts, and votes, operating only in constitutional and lawful channels. Some certain, and other possible, questions are, and would be, beyond the Executive power to adjust; as, for instance, the admission of members into Congress, and whatever might require the appropriation of money. The Executive power itself would be greatly diminished by the cessation of actual war. Pardons and remissions of forfeitures, however, would still be within Executive control. In what spirit and temper this control would be exercised can be fairly judged of by the past.

A year ago general pardon and amnesty, upon specified terms, were offered to all, except certain designated classes; and it was, at the same time, made known that the excepted classes were still within contemplation of special clemency. During the year many availed themselves of the general provision, and many more would, only that the signs of bad faith in some, led to such precautionary measures as rendered the practical process less easy and certain. During the same time also special pardons have been granted to individuals of the excepted classes, and no voluntary application has been denied. Thus, practically, the door has been, for a full year, open to all, except such as were not in condition to make free choice—that is, such as were in custody or under constraint. It is still so open to all. But the time may come—probably will come—when public duty shall demand that it be closed; and that, in lieu, more rigorous measures than heretofore shall be adopted.

In presenting the abandonment of armed resistance to the national authority on the part of the insurgents, as the only indispensable condition to ending the war on the part of the government, I retract nothing heretofore said as to

slavery. I repeat the declaration made a year ago, that "while I remain in my present position I shall not attempt to retract or modify the emancipation proclamation, nor shall I return to slavery any person who is free by the terms of that proclamation, or by any of the acts of Congress." If the people should, by whatever mode or means, make it an Executive duty to re-enslave such persons, another, and not I, must be their instrument to perform it.

In stating a single condition of peace, I mean simply to say that the war will cease on the part of the government whenever it shall have ceased on the part of those who begun it.

ABRAHAM LINCOLN.

DECEMBER 6, 1864.

Table showing the aggregate votes in the States named, at the Presidential election, respectively, in 1860 and 1864.

	1860.	1864.
California.....	118,840	*110,000
Connecticut.....	77,246	86,616
Delaware.....	16,039	16,924
Illinois.....	339,693	348,235
Indiana.....	272,143	280,645
Iowa.....	128,331	143,331
Kentucky.....	146,216	*91,300
Maine.....	97,918	115,141
Maryland.....	92,502	72,703
Massachusetts.....	169,533	175,487
Michigan.....	154,747	162,413
Minnesota.....	34,799	42,534
Missouri.....	165,538	*90,000
New Hampshire.....	65,953	69,111
New Jersey.....	121,125	128,680
New York.....	675,156	730,664
Ohio.....	442,441	470,745
Oregon.....	14,410	114,410
Pennsylvania.....	476,442	572,697
Rhode Island.....	19,931	22,187
Vermont.....	42,844	55,811
West Virginia.....	46,195	33,874
Wisconsin.....	152,180	148,513
	<hr/> 3,870,222	<hr/> 3,982,011
Kansas.....		17,234
Nevada.....		16,528
		<hr/> 33,762
		<hr/> 3,982,011
Total.....		<hr/> 4,015,773
		<hr/> 3,870,222
Net increase.....		<hr/> 145,551

*Near'y

†Estimated.

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PAPERS

RELATING TO

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PAPERS

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FOREIGN AFFAIRS.

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CORRESPONDENCE.

GREAT BRITAIN.

Mr. Adams to Mr. Seward.

[Extract.]

No. 545.]

LEGATION OF THE UNITED STATES,
London, November 27, 1863.

SIR : Despatches numbered 753, 754, and 755 have been received from the department at this legation. The customary measures to attain the objects specified in each of them have been taken, and a report will be made so soon as the results are known.

I have the honor to transmit a newspaper report of the remainder of the proceedings in the case of the *Alexandra*. No decision has yet been announced from the court. If it should be unfavorable to the motion, it is understood that the government will take an appeal to the higher court. The earnestness and vigor displayed by the law officers of the crown in the prosecution of this case on the present occasion leave nothing to be desired. It gives me pleasure to be able to bear this testimony at last.

The refusal of this government to go into the congress proposed by the French emperor will put an end to that project. Very possibly it may lead to new combinations all over Europe. In the mean time the Danish question is assuming an aspect more and more serious. The popular sentiment of Germany may prove difficult to control. Should it become impossible, war seems inevitable. In any event, the prospect is that the winter will be consumed in agitation and diplomatic negotiation on this subject. The bearing of this on American affairs I have already frequently descanted on. So long as this state of things shall continue, it is not probable that any efforts in favor of the rebels will make headway in this country. I have just had an opportunity to see the latest scheme of an association, set agoing under the auspices of that industrious patron of their cause, * * * * The object of the movement is to operate upon Parliament at the approaching session. In the mean while Mr. Spence is employed in making popular addresses for the purpose of organizing something that may look like public opinion.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,
Secretary of State, &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 546.]

LEGATION OF THE UNITED STATES,
London, November 27, 1864.

SIR: I transmit copies of two letters from Mr. Sprague, the consul at Gibraltar, respecting the suspected steamer seen off Cape Spartel on the 19th instant. Since then nothing more definite has been heard from her.

It may be that this is the vessel that the bark Agrippina was sent out from here last week to meet and supply with ammunition, agreeably to the information furnished from the source already made known to you. My own impression, however, is, from the color which she is said to be painted, that she is sooner or later likely to turn up as a blockade runner at Wilmington or elsewhere.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
Secretary of State, &c., &c., &c.

Mr. Sprague to Mr. Adams.

CONSULATE OF THE UNITED STATES,
Gibraltar, November 19, 1863—5½ p. m.

SIR: The British tug-boat Lion Belge, which plies between Tangier and this port, has just arrived, and her commander states that there is a confederate man-of-war steamer at Cape Spartel.

I forward this information to your excellency by telegraph, and also to our representatives at Paris, Lisbon, Cadiz, &c.

I have the honor to be, sir, your obedient servant,

HORATIO J. SPRAGUE,
United States Consul.

His Excellency CHARLES F. ADAMS,
United States Minister, &c., &c., &c., London.

Mr. Sprague to Mr. Adams.

CONSULATE OF THE UNITED STATES,
Gibraltar, November 20, 1863.

SIR: Since I had the honor to address your excellency last evening, I have closely examined the commander of the British tug-boat Lion Belge, who reported that he had seen a confederate war steamer off Cape Spartel. I now beg to enclose a memorandum of what he has just stated to me on the subject, and have forwarded a copy thereof to Commander Preble, of the United States ship Saint Louis, now provisioning at Cadiz.

In the absence of a federal war steamer at hand, this consulate is without the means of doing anything to protect our merchant vessels. Fortunately, however, there are but two at present at this port discharging coals, and I believe very few are now afloat in the Mediterranean.

I shall feel obliged if you will do me the favor to communicate all this information to our government at Washington, as the immediate departure of

the present steam packet does not permit me to address the Navy Department direct.

I have the honor to be, sir, in haste, your obedient servant,
HORATIO J. SPRAGUE,
United States Consul.

His Excellency **CHARLES F. ADAMS,**
United States Minister, &c., &c., &c., London.

CAPTAIN HUNTER'S STATEMENT.

CONSULATE OF THE UNITED STATES,
Gibraltar, November 20, 1863.

Statement of Captain Hunter, of the British tug-boat Lion Belge, on her voyage from Tangier to the port of Gibraltar, on the evening of the 19th of November, 1863.

At 4 p. m. saw a steamer, long, very sharp bow, sort stern, bark-rigged, with her funnel close to her mizzenmast and painted cream color, steaming very slow off Cape Spartel, and steering north—wind east at the time—apparently watching all vessels that were passing out of the straits; was painted black; saw her port-holes—four open—but could not see her guns. Her mizzenmast appeared small, and as if it could be taken down with ease for disguise. Showed no flag; saw some fifty heads knocking about the decks. At 8 o'clock of the morning the steam vessel Brunette reported to Captain Hunter having seen the same steamer further west, but in the same direction, and slowly steaming up as if watching. The steamer's foremast and mainmast are described as being very heavy and lofty masts.

Mr. Adams to Mr. Seward.

No 547.]

LEGATION OF THE UNITED STATES,
London, December 3, 1863.

SIR: Despatches have been received at the legation from the department, numbered 756 to 761, inclusive, together with a note dated the 14th of November, relating to the discharge of Mrs. Singleton's son, and another of the 16th, marked "private."

I have taken the necessary measures to obtain a conference with Lord Russell on the subjects referred to in Nos. 759, 760, and 761. On reflection, I prefer to adopt this course, in the first place, rather than that by writing, more especially as another subject has arisen, having an intimate relation to the main question in agitation, and not unlikely to effect the decision to which the British government will ultimately come.

It is now more than a fortnight since I received private and confidential advices from a person at Sheerness, that one of several war steamers, which had been lately sold by the British government, was remaining at that place, refitting, under the direction of persons connected with the royal dockyards, in a manner which created in him a strong suspicion that she was intended for an illegal purpose. The communication was of a kind that I could not use in any official way; but I conferred with Mr. Morse on the subject, and with his aid procured other information, strongly confirming the idea that the vessel was intended for the rebels, though nothing of a kind positive enough to base any representation upon to the British government. It is not improbable that the parties concerned got wind of the inquiries that were making, for they suddenly determined upon pushing the vessel out of the harbor, in spite of the fact that she was by no means prepared for sea, and had no adequate force to man her;

indeed, the workmen engaged in refitting here were actually carried out, and were found still busy when she was brought to at Calais, on the other side of the channel. Here the rebel flag was hoisted at once, and the vessel christened the "Rappahannock," with the view of obtaining the recognition of the French government. A number of officers and men were also then put on board, sufficient to constitute an appearance of a crew. The trick has succeeded thus far, but the vessel is as yet entirely unfit for sea, and will need much time and contrivance to secure an equipment, manning, and armament. Had the government of the United States a sufficient naval force in European waters she could scarcely hope to escape capture, together with the tenders and the Harriet Pinckney, which are evidently relied on to complete the operation; as it is, the chances are rather in her favor.

Although entirely without any technical evidence upon which to rest a remonstrance, I considered the case so peculiar as to justify me in making a representation to the British government, merely on the strength of a statement of facts presented by Mr. Morse. I have the honor to transmit copies of my note to Lord Russell of the 28th, and of Mr. Morse's letter to me of the same date. A copy of the reply of his lordship on the 30th accompanies them.

I have confidential information, but which I cannot use, that leads me to believe that high officers of the navy, attached to the yard at Sheerness, have been privy to this fraud. If the government is faithful to its duty of investigation, this cannot fail to appear. From the tone of the leader in Wednesday's Times on the subject, a copy of which I transmit, I infer that some action or other against the rebel agents is contemplated.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WM. H. SEWARD,

Secretary of State, &c., &c., &c.

[Enclosures.]

1. Mr. Adams to Earl Russell, November 28, 1863.
2. Mr. Morse to Mr. Adams, November 28, 1863.
3. Earl Russell to Mr. Adams, November 30, 1863.
4. Leader from the Times, December 2, 1863.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,

London, November 28, 1863.

Mr. Adams, envoy extraordinary and minister plenipotentiary of the United States, presents his compliments to the Right Hon. Earl Russell, her Majesty's principal secretary of state for foreign affairs, and it is with great regret that he feels compelled to call his lordship's attention to another instance of the violation of the neutrality of her Majesty's territory by the agents of the insurgents of the United States. The substance of the information which Mr. Adams has received will be found in a letter from the Hon. Freeman H. Morse, consul of the United States for this port, a copy of which he has the honor to submit to his lordship's consideration.

It appears that the vessel which has gone out in an unfinished state from Sheerness is one which has lately been sold from her Majesty's navy. She is not yet in a condition to go to sea, being neither armed nor manned. Mr. Adams hopes that it is not true that any of the people in her Majesty's employ

ave been engaged in the work of fitting her out. He has the strongest reasons for believing that two vessels which have just put into Plymouth, one a steamer called the *Harriet Pinckney*, the other a sailing vessel called the bark *Agrippina*, may be charged with the materials for the armament, and possibly with a portion of the crews.

Mr. Adams will probably be able to obtain further and more exact information in a day or two. In the mean while he has thought it best to lose no time in making a representation. Not doubting the disposition of her Majesty's government to do justice in the premises, as well in the rectification of any abuses that may have been committed by persons in her Majesty's service, as in the prevention of the ultimate success of this audacious enterprise, Mr. Adams prays Earl Russell to accept the assurances of his highest consideration.

Mr. Morse to Mr. Adams.

UNITED STATES CONSULATE,
London, November 28, 1863..

SIR: The confederate steamer *Rappahannock*, reported this morning at Calais, France, was her Majesty's steamer *Victor*, recently sold out of the government service. She has until recently been at Sheerness, opposite the government dockyard, and has been prepared for sea, and for active service, so far as she was prepared, when she left suddenly at midnight, by laborers many of whom were employed at the government dockyard at that place. A party of riggers was on board when she left, at work on her. Her rigging was not then ratted down. These riggers were from the government yard, and I am informed that these men were selected and sent off to the *Victor* by the master rigger at the dock. Also that the masts of her Majesty's ship *Cumberland* were used as shears to set the masts of the *Victor*, then called the *Scylla* and now the *Rappahannock*, and that other petty officers at the government yard have been employed to engage men and render other service to this privateer. In fact, that she was being prepared for service with the greatest secrecy and despatch, as a confederate privateer, under the cover and protection which her former ownership, proximity to the yard while being fitted out, and the employment of hands from the yard, threw around her.

She went off in quite an incomplete state, and would not have gone for some days but for the fact that the government here, as is supposed, became suspicious from some cause that materials from the yard had been used in repairing and fitting her, and ordered a search to ascertain the truth of the story. In a few hours after, she left suddenly, near midnight on the morning of Wednesday, the 25th instant, in tow of the tug-boat *Bull Dog*. She came to anchor near the Tongue light, lay there a short time, and then went to Calais.

The above facts, with many others of equal importance, I expect to make good by sworn affidavits, from responsible men, and will do so as soon as possible.

I do not mean to intimate by anything said above that the British government, or any officer of position connected with it, had any suspicion that they were selling a government war ship into the confederate service, and lending one of their dockyards as a protection to fit her out as a privateer to be used against our commerce. I think they have been deceived by agents of the confederates, and will be ready and anxious to act with more than their usual energy to remedy the evil.

Your obedient servant,

F. H. MORSE, *United States Consul.*

Hon. C. F. ADAMS, &c., &c., &c.

Earl Russell to Mr. Adams.

FOREIGN OFFICE, November 30, 1863.

SIR: I have the honor to acknowledge the receipt of your note, dated the 28th instant, but which was only delivered at the foreign office a few minutes before 4 o'clock on the following day, Sunday, respecting the case of a vessel described in the letter from the United States consul in London, enclosed in your note, as the confederate steamer Rappahannock, formerly her Majesty's ship Victor, recently sold out of the government service; and calling attention also to two vessels named the Harriet Pinckney and the Agrippina, which have put into Plymouth, and which you believe may be charged with the materials for the armament of the Rappahannock, and possibly with a portion of the crew.

I have to acquaint you that the attention of the proper department of her Majesty's government has been directed without loss of time to the statements made by you, and by the United States consul in this matter; and Lord Russell has no doubt that immediate steps will be taken to verify the truth of these statements.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES F. ADAMS, Esq., &c., &c., &c.

[From Wednesday's Times.]

In the course of the late argument on the foreign enlistment act many hypothetical cases were framed, by way of testing various theories of its construction. It has happened, by a curious and untoward coincidence, that one of these imaginary problems has just received a practical illustration. The case supposed was that of a ship built and equipped for war without any intention of violating the act, and afterwards passing through the hands of neutral purchasers into those of a belligerent government. It was admitted that such a transaction, being purely mercantile in all its essential features, would be perfectly legitimate, though it could hardly be denied that, if repeated too frequently, it might be open to exception, and lead to the very consequences deprecated by the legislature. While the decision on the seizure of the *Alexandra* are still pending, the combination of circumstances thus suggested has been realized in fact. A screw gun-vessel, called the *Victor*, of 859 tons burden and 350 horse-power, was sold by direction of the admiralty. She had been constructed, of course, for our own navy, and, besides being pierced for six guns, was, no doubt, adapted in all respects for the purposes of warfare. We are told that certain defects in the engines affecting her rate of steaming were the principal reasons for parting with her. She was bought ostensibly for the China trade, and having been named the *Scylla*, was allowed to be repaired and fitted with this object under the superintendence of the dockyard officials at Chatham. Certain facts, of which the particulars are not given, came to the knowledge of these authorities, and were reported by them to the admiralty. Orders were eventually despatched to Sheerness directing her to be stopped, but she had quitted the harbor and sailed a few hours before, unfinished, and with a number of workmen on board. She forthwith hoisted the confederate flag, changed her name to the *Rappahannock*, and soon anchored safely in Calais harbor. There she was detained by the French custom-house; but it appears that express instructions have since been received from headquarters permitting her to leave the port at pleasure.

We must reserve our opinion on the conduct of our own officers at Chatham

and Sheerness until the special report of the case, which has already been forwarded to the admiralty, shall have been laid before the public. In the mean time it is much to be lamented that, after their suspicions had once been aroused, it was possible for the vessel to slip through their hands. The *Alabama* escaped by a similar *ruse*, executed with the utmost skill and secrecy, but such mishaps ought not to occur twice, and very good reasons will have to be given for the delay which caused the order of embargo to arrive just too late. On the other hand, it would be folly to doubt for a moment that the admiralty acted throughout in perfect good faith. Even if our government had not been engaged, at much risk to their popularity, in maintaining the forfeiture of the *Alexandra*, the notion of their wilfully manufacturing vessels of war for the confederates would be utterly absurd. No one has ever pretended that proceedings of that kind are consistent with neutrality, or that the liberty of commerce which has been claimed for private ship-builders can be conceded to a state in its public capacity. Some time ago a case in which the Swedish government was concerned came under discussion in our columns. Remonstrances were made at Stockholm by one belligerent against the sale by Sweden to the other belligerent of some old vessels-of-war, and the justice of the objection was admitted. To adopt the contrary principle would be to make the workmen in our dockyards the mercenaries of a foreign power, and the naval resources of Great Britain an instrument of aggression against states in amity with us. For the sake of our own dignity, if better motives were wanting, we could not tolerate this, and we may be sure that it is the very last thing which the government would sanction. The difficulty is to prevent it in an exceptional instance like the present. Suppose the *Victor*, being unsuited for her original purpose, was sold to a respectable English firm, and transferred by them, at a high profit, to confederate agents. How is it possible for the admiralty to look beyond the first purchaser and to control the ultimate destination of the vessel? As it happened, certain repairs were needed, and the privilege of using the national dockyards was conceded to the new owners. This gave the admiralty a power which they would not otherwise have had, and which they were about to exercise when they found themselves outwitted. Apart from this incident of the business, the trick which has been played could not have been anticipated. There is nothing strange in the proposal to convert a man-of-war into a merchant vessel. We have only to read the evidence as to the equipment of the *Alexandra* to learn how slight are the differences in structure between the two. Greater solidity, more or less height in the bulwarks, the addition of ringbolts or hammock nettings, the being pierced with bow ports—such are the trifling indications which, interpreted by a sailor's eye, distinguish the hull of the frigate from that of the "frigate-built" merchantman. Yet it is notorious that some Indiamen possess both hammock nettings and bow ports, and even carry their bowsprits at that peculiar angle which is, perhaps, more characteristic of a "Queen's ship" than the symptoms we have mentioned. If second-hand men-of-war are not oftener bought up for the merchant service, it is because the admiralty generally find what they consider a profitable use for them so long as their timbers are sound. Moreover, it is only for long voyages and certain kinds of traffic that vessels of such costly materials and workmanship are in request among ship-owners. Aware of this, the parties who negotiated for the *Victor* took care to specify the China trade as that for which she was intended, and might have taken her across to Calais at once, if they had kindly selected that as their port of departure in the first instance.

While, therefore, we heartily regret this evasion, we regard it as one of those which must and will be practiced from time to time so long as the war last in America and we remain neutral. It is not to be expected that the confederates will see their enemies supplied with arms and munitions of war from this country without trying to compensate themselves in the readiest way. No doubt we can justify ourselves by conclusive arguments for prohibiting the

equipment of ships under penalties, though we leave the export of contraband articles in general to be checked by the hostile right of seizure. No doubt we can draw sound as well as subtle distinctions between building a vessel for sale to the highest bidder, selling it ready made, and equipping it to order, with a knowledge of its destination. These are important, if not essential, safeguards of neutrality; but it is too much to hope that they will be scrupulously respected by a belligerent whose coasts are blockaded. The confederates feel, and with some justice, that the impartial application of international law by us is injurious in its actual effect upon them, and increases the inequality of the struggle in which they are engaged. Men in this state of mind do not stick at trifles, and may be pitied, though they cannot be excused, when they combat force with fraud, and sometimes deceive their friends to injure their foes. Nations are not always jealous of their own honor, but they are seldom particular about that of their neighbors. The probability of our becoming involved in a quarrel with the federals about the Alabama or the Victor is not a consideration which would deter a confederate agent from defeating our foreign enlistment act if he could. This is not his affair, but it is ours; and duty requires us to look at it from our own point of view. Let the confederates strain our laws to their own advantage and our inconvenience if they will and can, but the administration of these laws rests with us; and when they happen to break them, they can have no decent pretence for expecting immunity.

Mr. Adams to Mr. Seward.

No. 548.]

LEGATION OF THE UNITED STATES,

London, December 4, 1863.

SIR: On the 30th instant I received a note from Lord Russell, a copy of which I now transmit. It seems to be supported by two affidavits, which have already found their way into the newspapers, and appear in the Times of the 2d instant.

As soon as possible I wrote a reply to his lordship's note, a copy of which is appended. At the same time I directed my secretary, Mr. Wilson, to write a letter to Mr. Eastman, the consul implicated, to learn from him the facts in the case. It is quite apparent that a trap was laid for the commander of the Kearsarge. I shall be very sorry if it should turn out that he has fallen into it. The allegations respecting Mr. Eastman are so vague and slight that I think it scarcely probable he had any share in the transaction, whatever it may have been.

I have just received a telegram from Mr. Eastman in advance of his letter, in answer to Mr. Wilson, explicitly denying that he has had, directly or indirectly, any knowledge of or participation in the enlistment of a British subject.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WM. H. SEWARD,
Secretary of State, &c. &c., &c.

[Enclosures.]

1. Lord Russell to Mr. Adams, November 30, 1863.
2. Mr. Adams to Lord Russell, December 2, 1863.
3. Depositions in newspapers of P. Kennedy and Ed. Lynch.

Earl Russell to Mr. Adams.

FOREIGN OFFICE, November 30, 1863.

SIR: I have the honor to call your attention to the following statement, which has come to the knowledge of her Majesty's government, respecting the shipment of British subjects on board the United States ship-of-war Kearsarge, when in the port of Queenstown, for service in the navy of the United States:

It is reported that when the Kearsarge was at Queenstown, early in this month, one of her officers, named James Haley, who had been a resident of Ringaskiddy, about twenty years ago, and who, after serving on board her Majesty's ship Shamrock, had entered into the service of the United States, went ashore for the purpose of visiting his sister at that place, and when there persuaded five persons, named John Sullivan, Edward Rylurne, Thomas Murphy, George Patterson, and Dennis Leary, to go to sea in the Kearsarge. These men are said to have been taken on board that vessel by one J. Dum, a boatman of Ringaskiddy. Another person of the name of Michael Ahern, lately in the employment of Messrs. Scott, of Queenstown, is also reported to have gone on board at the same time. None of these persons seem to have come on shore again, and they, therefore, must have sailed in the Kearsarge and have taken service in her as seamen.

Her Majesty's government have also been furnished with copies of affidavits made by Patrick Kennedy and Edward Lynch, both natives of Queenstown, who declare that they proceeded on board the Kearsarge to enter as seamen, but did not sail in her.

Patrick Kennedy deposes that he underwent an inspection by the ship's doctor, and that his name was registered; that he saw seven or eight other men from Ringaskiddy come on board, all Irishmen, one of them named Murphy. The names of the others he states himself not to know. He states that he was informed that the pay would be twelve dollars per month. Kennedy, however, left the ship with the pilot and returned to land. Kennedy also deposes that he saw on board the Kearsarge Mr. Eastman, the American consul, at Queenstown, in conversation with one of the officers, and that Mr. Dawson, the agent of the consul, was also on board.

Edward Lynch's affidavit corroborates the assertion made by Kennedy. He says that he went on board with two other Irishmen, Daniel O'Connell, of White Point, and John Connelly, of Bishop's street, Queenstown; and that O'Connell and Connelly, having been passed by the doctor, were engaged as seamen, together with three other men, all British subjects, whose names he did not know, he himself being rejected on account of his height. He declares that all whom he saw thus engaged sailed in the vessel when she left Queenstown.

I need not point out to you the importance of these statements, as proving a deliberate violation of the laws of this country, within one of its harbors, by commissioned officers of the navy of the United States.

Before I say more, I wait to learn what you can allege in extenuation of such culpable conduct on the part of the United States officers of the navy and the United States consul at Queenstown.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

C. F. ADAMS, Esq., &c., &c., &c.

Mr. Adams to Earl Russell.]

LEGATION OF THE UNITED STATES,
London, December 2, 1863.

Mr. Adams, envoy extraordinary and minister plenipotentiary of the United States, presents his compliments to the Right Honorable Lord Russell, her Majesty's principal secretary of state for foreign affairs, and has the honor to acknowledge the reception of his lordship's note of the 30th ultimo, relating to certain unlawful proceedings, alleged to have taken place at Queenstown, in the enlistment of her Majesty's subjects on board the Kearsarge, and in the agency of the consul of the United States, Mr. Eastman, in that transaction.

It would be a cause of deep regret to Mr. Adams if any just grounds should have been given by an officer of the United States to any similar allegation. He loses no time in assuring his lordship that he has taken immediate measures to apprise Mr. Eastman of the nature of the statement thus made, and to obtain the necessary explanations of the matter from him. In the mean time Mr. Adams cannot permit himself to doubt that the charge will prove to have been founded in some misconception of the facts in the case.

Mr. Adams prays Earl Russell to accept the assurances of his highest consideration.

THE FOREIGN ENLISTMENT ACT.

60 ST. VINCENT CRESCENT, GLASGOW, *November 30.*

SIR: As bearing upon the known wholesale violations of the foreign enlistment act by agents and officers of the United States government, I submit as matter of public interest at this time the following official documents which have come into my hands.

I am, &c.,

JAMES SMITH.

EDITOR OF THE TIMES.

"Borough of Cork, to wit: by one of her Majesty's justices of the peace for the borough.

"I, Edward Lynch, of Queenstown, in the county of Cork, yeoman, do solemnly and sincerely declare that the American war steam frigate Kearsarge came into the port of Queenstown, in this county, on the 2d day of November instant, where she anchored and remained till the 6th day of November following. That it was rumored that she was taking men for the support of the war now going on in America, and that I, in company with one Daniel O'Connell, of Whitepoint, and one John Connolly, of Bishop's street, in the town of Queenstown, both in said county, and all Irishmen, went on board said war frigate. That I remained on board said war frigate up to the hour of half past 5 o'clock in the afternoon on said day, and got my dinner and supper on board with all the other hands, and that the boatswain of said frigate shipped the said O'Connell and Connolly to serve on board said war frigate, and proceed to America therein, but objected to me on account of my height. That previously to the shipping of said two men, O'Connell and Connolly, they had to pass inspection of the naval doctor on board in the usual way in which men enlisting in the naval service have to do. That another man, whose name I do not know, and also, as I believe, a British subject, who formerly belonged to a merchant ship, and was residing in Queenstown for about three months previously, passed the doctor, and was shipped. That two other men, who belong to Ringaskiddy, in this county, were

also taken as firemen on board said war frigate, and that it was stated on board that the pay was to be twelve dollars per month. That the captain of said frigate was not on board at the time of these occurrences; but I heard the commander say to the boatswain, 'I'll leave them in charge to you now.' The boatswain took them with him, and in some time after they, the said O'Connell and Connolly, returned, and told me they passed the doctor. O'Connell's mother, now Mrs. Buckley, lives at the back of the chapel at Queenstown. A boatman from the Holy Ground at Queenstown also came on board, passed the naval doctor, in the usual way aforesaid, and was taken into service on board. There were about 200 hands on board, principally English and Irish. The said war frigate sailed from this port, by the direction of the admiral now stationed at Queenstown, on Friday, the 6th day of November instant; and it was stated they would first proceed to France, thence to America. The men of whom I have declared sailed on board said war frigate out of the port of Cork, and I make this solemn declaration, conscientiously believing the same to be true, in pursuance of the statute for the abolition of oaths and the substitution of declarations in lieu thereof.

his
"EDWARD × LYNCH.
mark.

"Truly read by me to said Edward Lynch.

"THOMAS H. CROFTS.

"Made and subscribed before me, in the borough of Cork, this 16th day of November, 1863.

"ROBERT HALL,
"One of her Majesty's Justices of the Peace for the Borough of Cork."

"Borough of Cork, to wit: by one of her Majesty's justices of the peace for the borough of Cork.

"I, Patrick Kennedy, of Queenstown, in the county of Cork, yeoman, do solemnly and sincerely declare that on Tuesday, the 3d day of November instant, I went on board the American war frigate Kearsarge, then lying in the port of Cork, for the purpose of enlisting in the naval service to which she belonged. J. Thomas Vesling, of Queenstown, and two other men from the light-house, whose names I do not know, were with me. We all went for the same purpose, having previously ascertained that the officers on board were enlisting men; this was widely circulated throughout Queenstown. When I went on board it was about 2 o'clock, and one of the officers told me I'd be taken as a landsman. The same officer told a person whom I believe to be the boatswain's mate to take me before the doctor, and accordingly I and the three other men were taken before the doctor of the ship, were stripped, even our stockings taken off, and passed his inspection. We left about 4 o'clock, promising to come aboard at 7 o'clock same evening. I did not go aboard that evening, but returned at about 7 o'clock next morning, and had breakfast, dinner, and supper on board. While aboard next day, seven or eight men from Ringaskiddy, all Irishmen, came aboard, and told me they had passed the doctor. These men sailed on board the vessel. I did not, as I, when outside the harbor, as the parties were asleep below, slipped into the boat with the pilot, and came home. A boy named Murphy, from Queenstown, also passed the doctor, and sailed in the vessel, as did all the others, with the exception of Vesling; he did not go. There were from 150 to 200 men taken on board, nearly all Irish. I saw Mr. Eastman, the American consul for Queenstown, on board. He was in conversation with some of the officers on board, and remained for some time. Mr. Dawson, the agent of the consul, was also on board. I was told twelve dollars a month would be

the pay. After we passed the doctor our names were registered. And I make this solemn declaration, conscientiously believing the same to be true, and in pursuance of the statute for the abolition of oaths and the substitution of declarations in lieu thereof.

his
"PATRICK × KENNEDY.
mark.

"Made and subscribed before me, at and in the borough of Cork, this 18th day of November, 1863.

"FELIX MULLUN,
"One of the Justices of the Peace for the Borough of Cork."

Mr. Adams to Mr. Seward.

No. 550.]

LEGATION OF THE UNITED STATES,
London, December 4, 1863.

SIR: I have the honor to transmit a copy of a note addressed by Lord Russell to me on the 27th ultimo, in reply to mine of the 3d of the same month, which was written in the sense of your despatch No. 736, of the 17th of October. The ground taken seems to me technically defensible, though a promise of a little investigation or at least close observation at St. George's would have been more satisfactory than throwing the burden of proof entirely on us.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,
Secretary of State, &c., &c.

Earl Russell to Mr. Adams.

FOREIGN OFFICE, November 27, 1863.

SIR: Her Majesty's government have duly considered, in communication with the proper law advisers of the crown, your letter of the 30th instant and its enclosures, respecting an alleged project for the establishment of a depot at St. George's, Bermuda, from which articles might be shipped to the ports of the so-styled Confederate States.

I have now the honor to state to you that it appears from the contract for this service, between Messrs. Gluseling & Co. and Mr. J. de Bree, of which a copy is enclosed in your letter, that the parties to it are not British subjects, but Americans, over whom her Majesty's government have no authority or control; while the schedules referred to in it, not being annexed, the character of the stores which these persons contract for is not shown. These stores may or may not be of a contraband character, and even if they are, the terms of the contract seem only to contemplate the use of ordinary mercantile agency.

Moreover, the terms of the contract do not necessarily import the establishment of any depot in Bermuda, but rather point to transshipment in the port of Bermuda of naval stores from vessels arriving there from foreign ports; nor is this transshipment rendered necessary or obligatory by the contract, but is left optional or contingent, the words of the contract being, "If at any time the said party of the second part shall so direct any part or the whole of deliveries, under said schedules A, B, C, D, and E, or any other hereafter sent, shall be made at the port of St. George's, Bermuda."

Under these circumstances, her Majesty's government do not consider that

they can properly interfere in this matter; but should you be furnished with any further information tending to show any intention on the part of any persons to violate the neutrality of British territory, they will not fail to give to your representations their most careful attention.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

C. F. ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

[Extract.]

No. 553.]

LEGATION OF THE UNITED STATES,
London, December 11, 1863.

SIR: Since writing my despatch No. 548, of the 4th instant, I have received a letter from Mr. Eastman, exonerating himself from the charges brought against him on the strength of the depositions referred to by Lord Russell. On the 7th I addressed a note to his lordship, a copy of which is annexed.

Captain Winslow has touched at Queenstown, and set ashore sixteen men, who are presumed to be the persons referred to in the depositions. He and Mr. Eastman have sent me papers explaining the circumstances under which they were carried away, copies of which are transmitted. I have not yet sent copies to Lord Russell, nor have I replied to Captain Winslow.

* * * * *

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,
Secretary of State, &c., &c., &c.

[Enclosures.]

1. Mr. Adams to Lord Russell, December 7, 1863.
2. Mr. Eastman to Mr. Adams, (extract,) December 4, 1863.
3. Captain Winslow to Mr. Adams, December 7, 1863.
4. Captain Winslow to Mr. Dayton, December 4, 1863.
5. Captain Winslow to Mr. Eastman, December 7, 1863.
6. Mr. Eastman to Mr. Adams, December 7, 1863.
7. Lieutenant Thornton to Captain Winslow, December 7, 1863.
8. Statement of Captain Winslow, December 7, 1863.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,
London, December 7, 1863.

MY LORD: With reference to your note of the 30th November, respecting certain insinuations contained in the depositions of parties at Queenstown against the conduct of Mr. Eastman, the consul of the United States, in connexion with a supposed enlistment of men for service in the steamer Kearsarge, I take pleasure in transmitting to you a copy of what Mr. Eastman writes in answer to my inquiry.

I pray your lordship to accept the assurances of the highest consideration with which I have the honor to be, my lord, your most obedient servant,

CHARLES FRANCIS ADAMS.

The Right Hon. EARL RUSSELL, &c., &c., &c.

Mr. Eastman to Mr. Adams.

[Extracts.]

UNITED STATES CONSULATE,
Queenstown, Cork, December 4, 1863.

SIR: * * * * *

With regard to any connivance upon my part in this matter, I can truly assert and declare that I do not know of a single shipment of seamen on board of the vessel, nor of the hiring or engagement of any, and have no doubt if such shipments took place I should have had some information; and from the positive assurances of the captain and his officers, I cannot believe that the captain or his officers did, during the stay of the vessel in this port, commit the acts represented to Earl Russell, as stated in his communication of the 30th of November. I feel assured, from the position of the captain in the service, that you will be justified in assuring Earl Russell that no such acts as have been represented to him were committed, and again would fearlessly state that, so far as I am concerned, I am perfectly ignorant of such alleged acts, and should not be so remiss in my duty to my government as not to convey it to them, if such had occurred to my knowledge.

I have the honor to be, sir, your obedient servant,

EDWIN G. EASTMAN,
United States Consul.

His Excellency C. F. ADAMS,
United States Minister, London.

Captain Winslow to Mr. Adams.

UNITED STATES STEAMER KEARSARGE,
At sea, December 7, 1863.

SIR: I have the honor to enclose herewith a copy of two letters, which, together with the movements of this ship, will afford other information which may interest you.

After a reconnoissance in the British channel off Plymouth, and in the absence of anything of importance, I shall proceed again to Brest.

I have the honor to be, very respectfully, your obedient servant,

JOHN A. WINSLOW, *Captain.*

Hon. CHARLES FRANCIS ADAMS,
*Envoy Extraordinary and Minister Plenipotentiary
of the United States, London.*

Captain Winslow to Mr. Dayton.

UNITED STATES STEAMER KEARSARGE,
Brest, France, December 4, 1863.

SIR: I despatched a telegram to you, in answer to your letter of the 3d ultimo. You will perceive from position that Brest is the best point for intercepting confederate vessels in the channel, but it is necessary that I should be immediately informed of their departure by consular agents. Again, if the information conveyed by letter from Mr. Bigelow be correct, that the Rappahanock and her consorts will rendezvous at the Azores, the chances of our falling in with her there are very favorable, but it is necessary that the information

shall be reliable, as on our departure from the channel the Georgia and Florida will immediately leave port and depredate on our commerce. The best plan for us is to remain quiet, as our movements are telegraphed to the Georgia and Rappahannock, and when either of these vessels sail, or anything of importance occurs, that I shall be immediately informed of it.

I will be obliged to you to forward a copy of this letter to Mr. Adams, that instructions may issue to consuls in England. To Mr. Dudley there is no need of it; no advice is necessary to him.

I have the honor to be, very respectfully, your obedient servant,

JOHN A. WINSLOW, *Captain.*

Hon. W. L. DAYTON,

*Envoy Extraordinary and Minister Plenipotentiary
of the United States.*

Captain Winslow to Mr. Eastman.

UNITED STATES STEAMER KEARSARGE,

At sea, December 7, 1863.

SIR: A party of men, either by connivance of the crew or otherwise, were concealed on board this vessel on the night of her departure from Queenstown, the 5th ultimo. These men, I learn, were in expectation of being enlisted in the service of the United States, after the Kearsarge had proceeded to sea, but found their mistake. To have turned them ashore at Brest would have been to open to them the temptation to enlist on board the Florida. I therefore determined to leave them at Queenstown as soon as it was practicable.

You will please notify Admiral Jones that I informed him that no enlistments would be made at Queenstown. I have, therefore, sent on shore this party, that no charge of subterfuge may be alleged in the premises.

Very respectfully, your obedient servant,

JOHN A. WINSLOW, *Captain.*

E. G. EASTMAN, Esq.,

United States Consul, Queenstown.

Mr. Eastman to Mr. Adams.

UNITED STATES CONSULATE,

Queenstown, Cork, December 7, 1863.

SIR: I have the honor to inform you that this morning the Kearsarge arrived off this port, and sent sixteen men ashore in a pilot-boat; also a letter to me stating the fact. I was so very much surprised at such a strange proceeding, that I immediately took a boat and went on board, and demanded of the captain his reasons for so doing in writing, copies of which I herewith enclose to you. I endeavored to prevail upon the captain to come in and anchor and explain, but it was of no use.

I have the honor to be, sir, your obedient servant,

EDWIN G. EASTMAN,

United States Consul.

His Excellency C. F. ADAMS,

United States Minister, London.

Lieutenant Thornton to Captain Winslow.

UNITED STATES STEAMER KEARSARGE,
Off Cork Harbor, December 7, 1863.

SIR: I beg leave to state, in accordance with your request, that on or about the 3d of November, 1863, several men from Queenstown came on board of this ship as applicants for enlistment in the naval service of the United States. In the absence of yourself, and of any definite instructions in regard to such applications, I told the men that if they were physically qualified for enlistment they might remain on board until your return, when you would decide. Upon your return, your instructions were *not* to enlist them; they were accordingly sent out of the ship.

Many applications of a similar nature were made, but their enlistment was in every case refused, in accordance with your instructions. During the time we were at anchor the ship was surrounded by boats filled with men desiring to enlist. Orders were given, and executed, not to allow them alongside. On the evening of the 5th this was the case until after dark, and until the ship was under way. The ship went to sea on the evening of the 5th November. It was storming and blowing hard.

In accordance with the usual custom of the ship, and with the necessities of the case, (as I thought,) before tripping the anchor all strangers were ordered out of the ship. The master-at-arms, with the ship's corporal and others of the police force, executed the order, finding men stowed away in the hold, in the carpenter's locker, and elsewhere. These men were put out of the ship, in some cases by force. As soon as the ship was reported cleared, the anchor was tripped, and the ship went to sea.

On the next day several men were discovered who were strangers in the ship. These men, probably with the connivance of the crew, had been so securely concealed as to elude the vigilance of the police force. Upon receiving this information you decided to land these men at Brest, whither you were bound. The men were sent out of the ship at Brest, in accordance with this determination, but pleading destitution they returned, and were permitted to remain on board until this morning, when they were landed in Queenstown by the pilot-boat Petrel.

I would add that the names of these men, upon their return to the ship while in Brest harbor, were placed upon the ship's books, for the purpose of their support and comfort, they being otherwise utterly destitute.

Very respectfully, your obedient servant,

JAMES S. THORNTON,

Lieutenant Commander U. S. N., and Executive Officer.

Captain JOHN A. WINSLOW, &c., &c., &c.

Statement of Captain Winslow.

UNITED STATES STEAM-SLOOP KEARSARGE,
Off Queenstown, December 7, 1863.

I certify that the United States steam-sloop Kearsarge arrived in Queenstown on the night of the 2d of November, 1863, and that on the following day I left the ship for Cork. On my return to Queenstown, accompanied by the American consul, I called upon the admiral in command, and in course of conversation reference was made to a paragraph in the papers, that the Kearsarge had come in for the purpose of enlisting men, when I informed the admiral that I had received notice from the executive officer of the Kearsarge that many

persons had applied to be shipped, and in response I had directed him to notify all persons that no enlistments would be made, and instructions were given in accordance.

On the night of the 5th of November, 1863, while blowing heavy, with thick rainy weather, the *Kearsarge* went to sea. On the following day report was made to me that several men had been discovered on board, and investigation showed that they had concealed themselves in the ship during the thick and rainy weather of the day or night previous, and disguised in this way proceeded in the ship, hoping to be enlisted in the service of the United States after she got to sea. The *Kearsarge* was on important duty, watching the *Florida* at Brest, and it was, therefore, impracticable to return the men to Queenstown immediately. I directed the men to be held at Brest, in apprehension, if they were turned ashore, they would join the *Florida*, resolving as soon as the *Kearsarge* left Brest again to put them ashore at Cork.

The *Kearsarge* left Brest again on the 5th of December, 1863, and, in accordance with my resolution, I have this day sent sixteen men ashore in the pilot-boat *Petrel*, with a list of their names as given to the American consul.

JOHN A. WINSLOW, *Captain*.

Mr. Adams to Mr. Seward.

No. 554.]

LEGATION OF THE UNITED STATES,
London, December 11, 1863.

SIR: I transmit herewith a copy of my note to Lord Russell concerning some depositions sent me by Mr. Morse, the consul for this place, in the case of the steamer *Victor*; his lordship has acknowledged the same.

Copies of all these papers are subjoined. I have just received another deposition on the same subject, which I propose to send in at once.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WM. H. SEWARD,

Secretary of State, &c., &c., &c.

[Enclosures.]

1. Mr. Adams to Earl Russell, December 5, 1863.
2. Mr. Morse to Mr. Adams, December 2, 1863.
3. Deposition of William Wynn, December 2, 1863.
4. Joint deposition of Joseph Murray and Thomas Kelly, December 2, 1863.
5. Deposition of Henry Barraclough, December 3, 1863.
6. Deposition of James Tucker, December 3, 1863.
7. Earl Russell to Mr. Adams, December 5, 1863.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,
London, December 5, 1863.

MY LORD: I have the honor to submit to your consideration a copy of a letter from Mr. Morse, consul of the United States at this place, and copies of the depositions of William Wynn, Joseph Murray, Thomas Kelly, Henry Bar-

raclough, and James Tucker, in relation to the proceedings in connexion with the fitting out of the steamer Victor at Sheerness, for the use of the insurgents in the United States, and the enlistment of men for service in that vessel.

I pray your lordship to accept, &c., &c.,

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c., &c.

Deposition of William Wynn.

I, William Wynn, boarding-house keeper, at present residing at 22 Lower Berner's street, Commercial Road East, do hereby truly, sincerely, and solemnly swear, that a boarder, named Charles Bennett, informed me that he had shipped on board a ship to run the blockade. Not liking the advance note, I applied to the broker's, Robert Gordon Coleman, No. 28 Clement's lane, Lombard street, respecting it. They satisfied me that it would be paid, and requested me to procure eleven seamen for the same ship, which, on the 26th of November, I supplied, and they went to the railway station, at London bridge, to meet a person calling himself Captain Brown, whom I first met at the broker's, Robert Gordon Coleman, and tickets were purchased by the so-called Captain Brown, for Calais, for them, (the men,) with about twenty-eight to thirty others, on Friday evening, the 27th of November. The men I supplied were to receive £3 15s. per month, in a ship called the Scylla or Stella, (pro tem.,) captain's name, Anson, (pro tem.) The seamen, Joseph Murray and Thomas Kelly, were two of the eleven; Charles Bennett, named above, is still on board. The men were shipped to join the ship in the Downs for a voyage to Jamaica.

WILLIAM WYNN.

Sworn at my office, No. 5 White Hart Court, Lombard street, in the city of London, this 2d day of December, 1863, before me,

JOHN J. ANDREW,

A London Commissioner to administer Oaths in Chancery.

Deposition of Joseph Murray and Thomas Kelly.

We, Joseph Murray, at present residing at Mr. W. Wynn's, 22 Lower Berner's street, Commercial Road East, and Thomas Kelly, at present residing at Mr. Waters's, 13 Ellen street, back Church lane, do hereby truly, sincerely, and solemnly swear that we were taken on Thursday, the 26th of November last, by Mr. Wynn, to No. 28 Clement's lane, and there introduced to a gentleman called Captain Brown, who engaged us for a ship lying in the Downs, named Scylla or Stella, for a voyage to St. Thomas or Jamaica, for twelve months, at £3 15s. a month; but it was understood that, after we were on board, a new arrangement was to be made, and articles signed. We were told that the ship was an English ship going to run the blockade. On Friday evening, the 27th instant, we went to the railway station, London bridge, and were sent to Dover, with others, about forty in all. Upon arrival at Dover the so-called Captain Brown, and a gentleman called the owner, sent us to an hotel, and in the morning of the 28th of November we went to Calais in the packet. Upon arrival at Calais we went on board a ship then called the Rappahannock, and we were called aft, and the captain on board said that he was surprised that they (the men) should have been sent down, as he would not be ready for a fortnight, and that he had ordered Captain Brown to send him down

one hundred able-bodied men, and that he did not wish that the men should come on board in the harbor, but had intended to have taken them off the packet before she had arrived, and that the ship was not in a condition to receive the crew, as the ship was undergoing repairs before going to sea. The captain on board in command, when he called us aft the first time, said to us: "Now you men know what you are engaged to do. You are now on your own hook, and whatever plunder you can make at sea the better for you. You are now going privateering, the same as the Alabama and the Florida. You men are going to fight for money, and I am going to fight for glory." Words to this effect were repeated several times. As he saw that most of us were discontented, we objected to stay by her, and he said, He (the captain) only wished that he had us at sea, and he would show us what discontent was. After several conversations, the master said he would not take the discontented ones, and that all that wished to leave might go. This was on Monday last, the 30th of November, and at 2 a. m., the 1st of December, twenty-one of us were sent back to London.

JOSEPH MURRAY.

his
THOMAS + KELLY.
mark.

Witness to the mark of Thomas Kelly—
JOSHUA NUNN.

Sworn by the deponent, Joseph Murray, at my office, No. 5 White Hart Court, Lombard street, in the city of London, this 2d day of December, 1863, before me,

JOHN J. ANDREW,

A London Commissioner to administer Oaths in Chancery.

Sworn by the deponent, Thomas Kelly, at No. 5 White Hart Court, Lombard street, in the city of London, this 2d day of December, 1863, the witness to the mark of the deponent being first sworn that he had truly, distinctly, and audibly read over the contents of the above affidavit to the said deponent, and that he saw him make his mark thereto; before me,

JOHN J. ANDREW,

A London Commissioner to administer Oaths in Chancery.

Affidavit of Henry Barraclough.

I, Henry Barraclough, of King's Head alley, Sheerness, fireman and boiler-maker, late in her Majesty's dockyard, Sheerness, do hereby solemnly swear that about two months since, I and others heard hands were wanted for the Scylla, of London, late her Majesty's steamer Victor. I went to Mr. Rumble, the chief inspector of machinery afloat. He promised to speak for me to the mate of the Scylla, Mr. Ramsey. I saw Mr. Ramsey near the Fountain hotel last Tuesday week in the morning; he said to me, "Mr. Rumble has been speaking to me about you," and said, "if you come on board at one o'clock this afternoon I will ship you." I did go on board, and he said, "Here you are, my lad;" I said "Yes," and he said, "I will ship you as a fireman at £8 per month for the trial trip, which is not to exceed fourteen days; but it may be only three days, and I will send you home at the owner's expense to Sheerness in case you do not like to ship for voyage, or our articles." I said, "Very well;" and he told me to go forward and tell the cook to give me anything to eat there was on board. I remained on board until I landed in Calais on Friday last. There were hammocks, blankets, and bedding provided for the crew. On Tuesday

week night we left about midnight. The *Scylla* was anchored off Westminster. The mate gave the order to weigh anchor, which was done. Mr. Rees, the master rigger, was on board, but he left in the tug when we had been about three hours at sea; therefore he did not go to Calais with us. I have received all the money due me, and am satisfied with the treatment I received. When I was called (on board by the captain) aft to sign articles, he told us all that the ship was a confederate man-of-war; that the same rules would be observed as in any other regular man-of-war, but the lash would not be used.

In my opinion she is as good a ship as any I ever worked upon in her Majesty's service, but the boilers are out of repair. The riggers on board were working in the dockyard, and had leave of absence, which was sanctioned by the captain of the yard. The ship left Sheerness very suddenly, and no guns or munitions of war were received on board in the Downs.

HENRY BARRACLOUGH.

Sworn at my office, No. 5 White Hart Court, Lombard street, in the city of London, this 3d day of December, 1863, before me,

JOHN J. ANDREW,
A London Commissioner to administer Oaths, &c.

I, James Tucker, of King's Head alley, Sheerness, do solemnly swear that I was present with Henry Barracrough during the whole time he remained on board the steamship *Scylla*, late her Majesty's steamer *Victor*, and I do hereby swear to the truth of the above affidavit of Henry Barracrough in every particular. I am well satisfied with the treatment I received; have been paid; and have no objection to go in the ship.

JAMES TUCKER.

Sworn at my office, No. 5 White Hart Court, Lombard street, in the city of London, this 3d day of December, 1863, before me,

JOHN J. ANDREW,
A London Commissioner to administer Oaths &c.

Earl Russell to Mr. Adams.

FOREIGN OFFICE, December 5, 1863.

SIR: I have the honor to acknowledge the receipt of your letter of this day's date, transmitting copies of depositions relative to the fitting out of the steamer *Victor*, otherwise *Rappahannock*, at Sheerness; and I have to state to you that the same shall be considered by her Majesty's government.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

O. F. ADAMS, Esq., &c., &c.

Mr. Adams to Mr. Seward.

No. 555.]

LEGATION OF THE UNITED STATES,
London, December 11, 1863.

SIR: Mr. Dudley, the consul at Liverpool, has sent me several depositions of men who have been engaged and paid by a commercial house in Liverpool to

make war on the United States. I have sent copies to Lord Russell, with a note dated the 7th instant. His lordship has acknowledged the reception of it. Copies of all these papers are transmitted herewith.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,

London, December 7, 1863.

MY LORD: I have the honor to submit to your consideration a copy of a letter from Mr. Dudley, consul of the United States at Liverpool, covering a number of depositions, all going to establish in the clearest manner the existence of a regular office in the port of Liverpool for the enlistment and payment of British subjects, for the purpose of carrying on war against the government and people of the United States. The persons concerned in these illegal transactions appear to be themselves all British subjects, knowingly engaged in violating the neutrality of their country, and, so far as it may be in their power, laboring to involve it in a war with a friendly nation with which it is at peace.

It is now some time since I first had the honor to call your lordship's attention to the fact of the systematic manner in which the insurgents of the United States have conducted a plan to violate in her own kingdom the neutrality proclaimed by her Majesty at an early period in this contest. Every day that has since passed has only contributed more thoroughly to expose the various forms in which it is carried forward. I trust that the extraordinary character of these proceedings, as well as the hazardous consequence to the future peace of all nations of permitting them to gain any authority under the international law, will not fail to fix the attention of her Majesty's government. I pray your lordship to accept the assurances of the highest consideration with which,

I have the honor to be, my lord, your most obedient servant,

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c., &c.

Mr. Dudley to Mr. Adams.

UNITED STATES CONSULATE,

Liverpool, December 1, 1863.

SIR: You will doubtless recollect that the pirate steamer Georgia, now at Cherbourg, was built upon the Clyde, sailed from Greenock, Scotland, under the English flag, and with an English crew, about the 3d of April last. At the time of her sailing she was called the Japan, afterwards the Virginia, and now the Georgia. Her crew was partly shipped in Liverpool, and partly at Greenock. She sailed towards Brest, off which port she received her armament from the British steamer Alar, from New Haven, and at once entered upon her cruise. The vessel was fitted out and the crew shipped by Jones & Co., No. 28 Chapel street, Liverpool. I have in my possession one of the original notes given to one of the crew by this firm at the time he was shipped. The signature, "Jones & Co." to the note, I am told, was written by Thomas Hyatt, one of the firm. I am informed the firm consist of Thomas Bold, John Jones, and Thomas Hyatt, all Englishmen. At the time the vessel sailed she was owned by Thomas Bold, one of the members of this firm, as will appear by her register

at the customs in Liverpool. He continued the owner up to 23d of June, 1863 at which time he parted with the vessel to a foreigner, as appears by a certified copy of said register, furnished me by the collector; John Jones, another member of the firm, went out to the Japan, or Georgia, in the channel, on the steamer Alar, at the time she carried out the armament, and superintended the shipping of the armament from the Alar to the Georgia, and aided in re-enlisting the crew for the cruise; promised the men who had wives should have half pay of the wages earned by their husbands on the vessel. Francis Glassbrook and John Stanley, two of the crew, sent their bounty money, amounting to £10, to their wives, and Benjamin Conolly, another of the crew, sent all or a part of his to his father by Mr. Jones. All this money so sent was afterwards paid by Jones & Co., at their office, in Liverpool, to the parties to whom it had been sent. This firm have paid, and still continue to pay, the wives of the men on board this vessel the one-half of the wages earned by their husbands. The payments are made once a month. I enclose you copies of the affidavits of John Stanley, Francis Glassbrook, and Benjamin Conolly, three of the crew from this vessel, now in Liverpool, establishing the facts relative to their shipment, &c.; and copies of the affidavits of Mrs. Stanley and Mrs. Glassbrook, showing the payment of the half pay by this firm to them during the cruise of the vessel, the last payment of which was made so late as Saturday, the 21st of November last; also a copy of Daniel Conolly's affidavit, proving the payment to him by Jones & Co. of the money sent by his son.

I have also to inform you that I am told the firm of Jones & Co. are now engaged in procuring and shipping men from Liverpool for this same vessel, the Georgia.

On the 21st of November, last Saturday week, Glassbrook and Conolly called at Jones & Co.'s office; they were asked if they belonged to the steamer Florida; they answered no, that they belonged to the Georgia. The man then told them he had news for them, and wanted them to go back to the ship. He told them they would pay their passage back, and requested them to be at the Havre boat on the next Monday morning. They both went to the Havre boat on the morning of the 23d of November last, were met by a man from Jones & Co.'s office, who paid them each £3, taking a receipt for the same, to return and serve on said vessel, the Georgia, now at Cherbourg. The affidavits of Conolly and Glassbrook above referred to prove these facts. You will also find a copy of Eliza Conolly's affidavit corroborating the same.

I am, sir, very respectfully, your obedient servant,

THOMAS H. DUDLEY,
United States Consul.

HON. CHARLES FRANCIS ADAMS,
United States Minister, &c., &c., &c.

£2 10s.]

Agreement made at Liverpool this 28th day of March, 1863.

Ten days after the ship Japan sails from the river Clyde, the undersigned do hereby promise and agree to pay to any person who shall advance two pounds, ten shillings, — pence, to Edward Davies, on this agreement, the sum of two pounds, ten shillings, — pence, provided the said Edward Davies shall sail in the said ship from the said river Clyde.

JONES & CO.

Payable at 28 Chapel street.

On the back :

EDWARD DAVIES.

I, John Stanley, of No. 26 Court, in Ovid street, Vauxhall road, Liverpool, in the county of Lancaster, cooper, make oath and say as follows :

On the 27th of March last I saw Mr. Barnett, a shipping agent, who informed me that he wanted several coopers to join the Japan, bound to Singapore, and he requested me to try and find one or two coopers to go with me, and to take them to Jones's office, 28 Chapel street. I went to several of my friends, but they all declined going. I then went to Mr. Jones's office, and saw a tall gentleman with a black moustache, and informed him, as directed by Mr. Barnett, that I could not get any one else to go with me, and I agreed to go myself. The gentleman then took down my name, and I afterwards went back to the Sailors' Home, and Mr. Barnett introduced me to Captain Hitchcock, who told me that he wanted some coopers for his vessel, the Japan, going to China. I then asked him what wages he would give me, when he said £4. I told him that I could not go for these wages, and said that the ordinary wages of coopers was £6 10s. Captain Hitchcock then said to me that it was not wages alone that I should get. I should get something else, which would make up for the voyage. He at length agreed to give me £4 10s, which I accepted, and I then signed articles for two years. After signing articles I received a ticket, which I took to Jones's office, and I then received an advance note for £4 10s. I went to a great many places the same day, trying to get the note cashed, but no one would cash it for me. I went to Mr. Jones's office and took my wife with me, and saw the same gentleman, and told him that no one would cash it for me, and unless he cashed it I would not go in the ship. He then paid me £2 on account, and said he would pay my wife the difference when I got to sea. He then told me to bring my clothes down to his office, which I did, and he then told me to be at the Greenock steamer the following Monday night, the 29th March, at 5 o'clock.

I did attend at the Greenock steamer as ordered, and there saw the same gentleman and Captain Hitchcock, who were superintending the shipping of our clothes. Each man's clothes had a number on it, and the gentleman from Jones's office called out our numbers as we went on board the steamer.

We left Liverpool that night, and arrived at Greenock on the 31st. We were then taken on board of a tug-boat, which took us to the Japan. About the 3d of April we left Greenock, as was reported, upon a trial trip. After we had been out a few days, we fell in with a small steamer which we towed to Brest, where we came to an anchor in the harbor. The small steamer then came alongside of us, and we took in a large number of cases of arms and ammunition. Myself, the carpenter, and the joiner opened the cases, and I saw that they contained arms and ammunition. Mr. Jones superintended the shipping of the cases, he having come on board the Japan from the small steamer.

A fresh captain then came on board the Japan from the small steamer, dressed in a gray uniform, and called us all aft, and said that his vessel was going to sail under another name and flag; that her name was the Georgia, and we were going to cruise under the confederate flag; that he would pay the seamen £4 10s. a month and £10 bounty. He said he would pay me £5 a month. Mr. Jones was standing close to him at this time. One of the men asked him if we should get prize money, when the captain said, that if the Alabama's crew received it we should. Mr. Jones then said, "Of course we should get prize money." Those who had agreed to join were then taken into the cabin. Mr. Jones, Mr. Chapman, the first lieutenant, and Captain Maury being present, when we signed articles to serve for three years, or during the war, and we were each paid £10 on signing the articles. I then told Captain Maury that I was married and would require half pay, when Mr. Jones called me to him and said that I should have it, and I gave him the address of my wife. I then gave my £10 bounty money to Mr. Jones, who said he would send for my wife when he got home and pay it to her, and make arrangements with her for the half pay.

We left Brest about the 9th of April, and about the 25th we met the Dictator, which we burnt. We then went to the Western islands, where we found an American man-of-war lying at anchor. We then ran out again and went to Bahia, where we landed the Dictator's crew. Several of her crew agreed to join us. We also took in coals there from the bark Castor, but we were stopped by the authorities, and got the remainder of our coals from shore. We met the Alabama at Bahia, and several men who had been prisoners on board her joined us. We then went on our cruise, and soon afterwards fell in with the George Griswold, which was ransomed. We afterwards met with the bark Good Hope, which we burnt. On the same day we fell in with the J. W. Sever, from Boston, which we ransomed. We put the Good Hope's crew on board of her. We then went to the island of Trinadi to coal. We waited there some time for the Castor, when we sighted a ship. We then got up steam and ran after her, and she proved to be the Constitution, laden with coals. We loaded our vessel with coal from her, and took all her small arms out, and then burnt her. We fell in with the City of Bath the same day, which we boarded, and her captain gave a bond. We put the Constitution's crew on board of her, except five, who joined us. We soon afterwards fell in with the Prince of Wales, which was ransomed. We then went to Simon's bay, Cape of Good Hope, where we got the decks calked. We stayed at Simon's bay about a fortnight, and on the first night after leaving there we met the John Wart, which we ransomed. We then steered northward, and about the 8th or 9th of October we fell in with the Bold Hunter, which we burnt. We put her crew ashore at Teneriffe, where we coaled, and then proceeded to Cherbourg, in France. Whilst we were lying at Cherbourg I got 24 hours' leave of absence. The paymaster gave me £1 as liberty money. I went ashore, and having got some drink, I came back to the yard where the Georgia was lying, when I changed my mind and went back again into the town, where I met the carpenter, who gave me some money to pay my fare to Havre, and I then came to Liverpool in the Havre steamer.

On the Sunday before I left Cherbourg the captain of the Georgia called us aft, and said that he was sorry to hear that some of us were dissatisfied with the ship, but that he had two fighting ships coming over, and we might join either of them, and that we should have as much fighting as we liked. The captain said this to the crew upon two occasions.

On the 26th of November instant I called at Mr. Jones's office with my wife, and saw the same gentleman, and asked for Mr. Jones. He asked me what I wanted with him, and whether I was one of the men belonging to the ship. I told him I belonged to the Georgia, and he asked me whether I was going to join the ship again. I told him that I was, and asked him for something on account of my wages. He told me that he could not pay it to me then, but requested me to call the following morning. I then asked him whether he could not give me something then, when he said, "No, you must call to-morrow." He then asked me whether I had seen any of the men belonging to the ship in the town, and I told him that I had, and he desired me to look them up, and bring them with me to his office to-morrow.

his
JOHN + STANLEY.
mark.

Sworn at Liverpool, in the county of Lancaster, this 26th day of November, 1863, the affidavit having, in my presence, been previously read over to the deponent, who appeared perfectly to understand the same, and made his mark thereto in my presence.

J. PEARSON,
A Commissioner to administer Oaths in Chancery in England.

I, Francis Glassbrook, of 53 Upper Hill street, Liverpool, in the county of Lancaster, able seaman, make oath and say as follows :

On the 27th March last I heard that some men were wanted for a steamer going to China, and I went to the Sailors' Home, Liverpool, and shipped in the screw steamer *Georgia*, under the name of Francis Rivers, for a voyage to Singapore and back to the United Kingdom; not to exceed two years. After I signed articles, a tall gentleman with a black moustache and an imperial, whose name I have been informed and believe is Robert Hyatt, told me to take my clothes to Mr. Jones's office, 28 Chapel street, which I did. I then received orders to call the following morning at his office, which I did; and the same gentleman told me to be at the Greenock steamer on the following Monday night, at 5 o'clock. I went to the Greenock steamer as ordered, and there saw Captain Hitchcock and Mr. Jones, who was superintending the shipping of our clothes. We sailed for Greenock that night, and arrived there on the 31st; we were then taken on board of a tug-boat, which took us to the *Japan*, or *Georgia*. On the 3d of April we left Greenock, as was reported, upon a trial trip. During the time we were upon the supposed trial trip, we fell in with a small steamer which came alongside of us, and we towed her to Brest, where we came to anchor. Whilst we were lying at anchor at Brest, the small steamer discharged a large number of cases, containing arms and ammunition, into the *Japan*, under the superintendence of Mr. Jones, who came aboard the *Japan* from the small steamer. I saw several of the cases opened, which contained arms. The captain of the *Japan* then put on his uniform, and several officers came on board from the small steamer. The captain then called all hands aft, and told us that his vessel was going to sail as a confederate cruiser, and told us that those who wished to join should have £4 10s. a month, and £10 bounty. One of the men then asked him if we should have our share of prize money, when the captain told him if the crew of the *Alabama* received any prize money we should get it. A great many of the men refused to go; but I and about thirty others agreed to join, and we were then taken into the cabin, and signed articles again to serve in the *Japan*, and were each paid £10 on signing, Mr. Jones being in the cabin at the time taking down the addresses of our wives. I signed articles the second time in my right name. We all signed for three years, or during the war. After I signed articles I asked Captain Maury whether he would give me half pay, as I was married? when he took down the address of my wife, and said that he would leave instructions for my half pay to be paid to her. Mr. Jones was still in the cabin when I asked Captain Maury about my half pay. I enclosed my £10 bounty money in a letter which I sent to my wife by Mr. Jones, and told her that she must call and see Mr. Jones, and inquire if he had received orders to pay her my half pay; and my wife called at his office and received the money; and she has since called regularly every month at Mr. Jones's office, and he has paid her my half pay. I also gave my advance note to my wife, and it was cashed at Mr. Potter's, 8 James street.

We left Brest on the 9th of April, and about the 25th we fell in with the Dictator, from Liverpool, bound to Hong Kong; we ran close up to her and hove to, and sent a boat aboard of her; we then brought her crew on board the *Japan* and burnt her. We were flying the English ensign from leaving Brest, but when we got alongside the Dictator we hoisted the confederate flag. We then went to the Western islands, where we found an American man-of-war at anchor, which had arrived before us; we then went to Bahia, where we landed the crew of the Dictator, except six, who had agreed to join the *Japan*; we there met the bark *Oastor*, and took in coals from her; whilst we were taking in the coals we were stopped by the authorities, and we had to get the remainder of our coals from shore; after we finished coaling, several men who had been prisoners on board the *Alabama* joined us, and we then went on our cruise.

We fell in with the *George Griswold*, from Liverpool to Rio Janeiro, and sent

a boat to her; we did not burn this vessel, her captain having given a bond; we then fell in with the bark Good Hope, from Boston to the Cape of Good Hope, which we burnt. On the same day we fell in with the J. W. Sever from Boston, which was ransomed; we placed the crew of the Good Hope on board of her; we then proceeded to a desolate island called Trinadi, where we expected to meet the Castor; after lying there a week, the Castor not having made her appearance, we sighted a ship, which proved to be the Constitution from New York, laden with coals; we filled our vessel with coals from her, and then burnt her. During the time we were taking in coals from the Constitution we fell in with the City of Bath, which we boarded, and ransomed; several of the crew of the Constitution also joined the Japan, and we put the remainder on board of the City of Bath; we then cruised about, and in about a week we fell in with the Prince of Wales, which was also ransomed; we then went to Simon's bay, Cape of Good Hope; where we got the decks caulked, and coaled; after staying there about a fortnight, we left and steered towards England, and on the first night after leaving we fell in with the John Watt, which we learnt had been previously boarded by the Vanderbilt; we did not burn the John Watt, her captain having given a bond. We then steered northward, and on the 9th of October we fell in with the Bold Hunter, which we burnt on the 10th; we put her crew ashore at Teneriffe; we coaled at Teneriffe, and then proceeded to Cherbourg in France, where we remained about a week; I left the Japan at Cherbourg, having got leave of absence for a week; I got £10 from the purser as liberty money.

On the Saturday previous to my leaving Cherbourg for Liverpool the captain of the Japan, Mr. Maury, called all hands aft, and said, "Well, my men, I hear that a great many of you are dissatisfied with the vessel, and I am sorry to hear that some of you want to leave her; I do not wish to part with any of you, being such a good crew; I have stuck to my bargain with you, and I hope you will all stick to yours." One of the men then said to the captain, that we did not wish to leave the service; we were all dissatisfied with the ship, and wanted to be on board of a ship more able to fight. The captain then said that we should have two fighting ships before very long, and we should have as much fighting as we could do with. Several of the men then spoke about leaving for Liverpool, when the captain said he had no orders yet to grant leave to any of us, but that he was going to Paris that night to see his superior, and on his return he would give us further information. On his return from Paris, he again called us aft, and said that he had got very good news from Paris; that he could give us leave for a short time, but that he could not part with any of us; but that if any of us could not agree among ourselves, we might join either of the two vessels which he had coming.

On my return to Liverpool I went to Mr. Jones's office, in Chapel street, and asked him how I was to get back to the Japan; but he denied all knowledge of the vessel, and advised me to write to the captain.

On the 21st day of November, instant, I again called at Mr. Jones's office in company with Benjamin Conolly, and saw the gentleman with the moustache. I asked for Mr. Jones, and the gentleman then asked me if I belonged to the Florida; I replied, no, I belonged to the Georgia; he then said that he had news for us, and wanted us to go back to the ship; I then asked him if he could give me my half pay, when he said that my half pay was waiting, in the office, for my wife, and that he would not pay it to any one but her; I then informed him that my wife was ill, and asked him if I got her to sign a receipt for the money, whether he would pay it to me; when he said he would, and he directed the boy to make out the receipt for the half pay; I took the receipt home to my wife, and she made her mark to it in the presence of my mother, and I afterwards took it to Mr. Jones's office, and the clerk paid me the money. The same clerk then told me to call at the office again at 3 o'clock, and I did

call at that time, when he requested me to be at the Havre boat on the following Monday morning, at 8 o'clock, as he wanted me to join the ship again, and he would then pay my passage to Cherbourg.

I went to the Havre boat, as directed, on Monday morning, the 23d of November, instant, and saw there Frank Barron, the yeoman of the Georgia, or Japan, who introduced me to a strange clerk from Jones's office; he was a young man, about five feet seven or eight inches high, without any whiskers, and whose name I have been informed and believe is John Welding. The clerk said to me that he did not think I was going to come, as it was late; I then asked him if I was to go back to the Georgia, and he said yes; I then asked to whom was I to report myself, when Barron answered that I was, of course, to report myself to one of the deck officers when I reached Cherbourg.

The clerk then asked me to sign two papers, which I thought were receipts for the £3 which he then gave me to pay my passage round to Havre; I signed the papers on a bale of goods on the dock quay; the clerk then asked me to go on board the Havre steamer, but I made an excuse, that I wanted to get a glass of grog before leaving; the clerk objected to my going away, but as I insisted upon going, he at last consented.

In the schedule I have given a list of the officers and crew of the Georgia. The schedule referred to is as follows:

L. Maury, captain, and Chapman, 1st lieutenant, left us at Cape Town; Mr. Evans, 2d lieutenant; Mr. Smith, 3d lieutenant; Mr. Ingram, 4th lieutenant or sailing-master; Mr. Walker, passed midshipman; Mr. Morgan, midshipman; Mr. Curtis, paymaster; Wm. May, master-at-arms; George Stevenson, sergeant; Henry J. Jones, doctor's assistant; Mr. Pearson, chief engineer; Mr. Butler, 2d engineer; Smith, 3d engineer, left us at Cape Town; Mr. Hannon, 4th engineer; Mr. Naylor, gunner; Mr. Morton, boatswain; Thos. Williams, chief boatswain's mate; Thos. Williams, 2d boatswain's mate; Thomas Monk, 4th boatswain's mate; Thos. Call and Frank Mills, captains of forecastle; John Benson, captain of foretop; Robert Rodway, captain of maintop; Felix Morgan and Wm. Williams, captains of after-guard; Thomas Hiley, James Hendry, and Wm. Jackson, quartermasters; Wm. Dunn, acting gunner; John Williams, gunner's mate; Wm. Price, cook; Freeman, ship's steward; Fleming, ward-room steward; W. Bassell, armorer; John Stanley, cooper; Joseph Seymour, lives at 33 Bedford street, Liverpool, seaman; Matthews, painter; R. Neil, carpenter, and Mr. Ewen, joiner; Jerome Ebrio, sailmaster; Alex. Crozier, Alex. McDonald, Thompson, Robinson, W. Hays, Neilson, Smith, Y. James, Fitzgerald, Peterson, John Lyons, Wm. Lloyd, Hinds, and Murray, seamen; W. Cox, Ford, McThien, and J. Clayton, boys; Joseph Hobbs, captain of the hold; Frank Barron, ship's yeoman; James Wilson, Wm. Cullen, John Allstone, and Smith, seamen; John Brown, No. 1, and John Brown, No. 2, seamen; Bernard Allen, John Dollan, Thos. Jones, seamen; T. McChee, A. Ellis, A. Pantee, John McCarthey, Michael Droomy, Wm. Davitt, Benjamin Conolley, 17 Temple Buildings, Liverpool; Gordon, Curtis, Thurston, Michael Conner, Walter Owen, James Wilson, John Williams, firemen; Thompson, wardroom cook; Antonio Bass, captain's cook; Mr. Hunt, master's mate, J. Williams, gunner's mate.

FRANCIS GLASSBROOK.

Sworn at Liverpool, in the county of Lancaster, this 24th day of November, 1863, before me,

JUSTLEY PEARSON,

A Commissioner to administer Oaths in Chancery in England.

Benjamin Conolly, of No. 17 Temple Buildings, Liverpool, in the county of Lancaster, fireman, makes oath and says as follows :

On the 27th of March last I was at the Sailors' Home, Liverpool, when I met Mr. Barnett, a shipping agent, who informed me that I had a chance of going in a steamer which was bound to Singapore. Mr. Barnett then introduced me to Captain Hitchcock, who told me that he would take me. I then signed articles, and a gentleman, with a black moustache and an imperial, whose name I have been informed and believe is Robert Hyatt, came up to me and told me to take my clothes down to Mr. Jones's office, 28 Chapel street, Liverpool, which I did, and there saw the same gentleman. On the following morning (Saturday) I called at Mr. Jones's office, as requested, and received my advance note. I then received orders to be at the Greenock boat on the following Monday, at 5 o'clock. I went to the Greenock steamer, as ordered, and there saw Captain Hitchcock and Mr. Jones, who was superintending the shipping our clothes. We sailed for Greenock that night, and arrived there on the 31st. We were taken on board of a tug-boat which took us to the Japan, or Georgia. On the 3d of April we left Greenock, as was reported, upon a trial trip, and whilst we were on the supposed trial trip we fell in with a steamer which brought us several more hands, provisions, and clothing. We afterwards fell in with another small steamer which we towed to Brest, and she there discharged a great many cases containing arms and ammunition into the Japan, under the superintendence of Mr. Jones, who came on board of the Japan from the small steamer whilst we were lying at anchor at Brest. I know the cases contained arms and ammunition, because I assisted in opening several of them. Both the arms and ammunition cases were marked Alderney, and the muskets were marked Blakeley. After we got the cases on board, the captain of the Japan came aft, dressed in uniform, (a gray uniform,) with the letters C. S. N. on the buttons, and called all hands to him, and told us that we were going to sail under the confederate flag; that we should have £10 bounty, and £4 10s. per month wages if we joined. He also said we should have prize money if the Alabama's crew received it. Whilst the captain of the Japan was addressing us, Mr. Jones was standing close to him, and he afterwards came among us endeavoring to induce us to join. Mr. Jones came to me and asked if I would join, but I refused, and Mr. Jones told me that I was throwing a good chance away; that it was an excellent chance for me to make my fortune; that I should have plenty of money, and he at last induced me to join. Those who agreed to join them went into the cabin of the Japan. Mr. Jones was in the cabin and taking down the addresses of the men's wives who received half pay. I was paid £10 bounty upon signing articles. We joined for three years, or during the war with the north. We left Brest on the night of the 9th of April, and about the 25th we fell in with the Dictator, from Liverpool, and boarded her, and then brought the crew on board the Japan and burnt her. We then went to the Western islands, where we found an American man-of-war lying at anchor. The name of which, I think, was the Mohican. We then went to Bahia and landed the crew of the Dictator there, except a few who had agreed to join us. We met the bark Castor at Bahia, and took in coals from her. Whilst we were taking in coals we were stopped by the authorities, and got the remainder of our coals from shore. Several men, who had been prisoners on board the Alabama, joined us at Bahia, and we then went on our cruise. We soon afterwards fell in with the George Griswold, which was ransomed, her captain having given a bond. We also fell in with the bark Good Hope, from Boston, which we burnt. On the same day we boarded the J. W. Sever, from Boston, which was ransomed. We put the crew of the Good Hope on board of her. We then proceeded to the island of Trinadi, where we had arranged to meet the Castor to coal. After lying there about a week, waiting for the Castor, we sighted the Constitution,

from New York, laden with coals, which we boarded, and after filling our vessel with coals from her we burnt her. During the time we were taking in coals we fell in with the *City of Bath*, which was also ransomed. We placed the *Constitution's* crew on board of the *City of Bath*, except about six, who agreed to join us. In about a week afterward we fell in with the *Prince of Wales*, which was ransomed. We then went to Simon's bay, where we got the decks calked; after leaving Simon's bay, we fell in with the *John Watt*, which we also ransomed. We then steered northward, and about the 9th of October we fell in with the *Bold Hunter*, which we burnt the following day. We put her crew ashore at Teneriffe, where we coaled. We then started for Cherbourg, in France, where we arrived about the 28th of October last. I left the *Japan* in Cherbourg, (government dockyard,) and arrived in Liverpool on the 30th. I got a week's leave of absence, and received £20 liberty money. On the Sunday previous to my leaving Cherbourg for Liverpool, the captain of the *Japan*, Mr. Maury, called all hands aft and said, "Well, my men, I hear that a great many of you are dissatisfied with the vessel, and I am sorry to hear that some of you want to leave her. I do not wish to part with any of you, being such a good crew. I have stuck to my bargain with you, and I hope you will all stick to yours." One of the men then said to the captain, "We did not wish to leave the service; we were all dissatisfied with the ship, and wanted to go on board of a ship more able to fight." The captain then said, "That we should have two fighting ships before very long, and we should have as much fighting as we could do with." Several of the men then spoke about leaving for Liverpool, when the captain said "He had no orders yet to grant leave to any of us, but that he was going to Paris that night to see his superior, and on his return he would give us further information." On his return from Paris he again called us aft, and said "That he had got very good news for us from Paris; that he could give us leave for a short time, but that he could not part with any of us, but that if any of us could not agree among ourselves we might join either of the two vessels which he had coming."

On Monday last, the 16th of November, I called at Mr. Jones's office, in Chapel street, Liverpool, and asked him how I was to get back to the *Japan*, when he told me to call again in a day or two and he would pay my passage to France. Upon signing articles, I received an advance note for two pounds, which was signed Jones & Co., 28 Chapel street, Liverpool. I got the note cashed at Jacobs's, Paradise street. None of the crew of the *Japan* received any half-pay notes, the captain having given instructions for the half pay to be paid by his agents in England to the men's wives, whose addresses the captain took at the time we signed articles.

On the 21st of November, instant, I again called at Mr. Jones's office, in company with Francis Glassbrook, and again saw the same gentleman, who asked us if we belonged to the *Florida*. We told him no, we belonged to the *Georgia*. He then said he had news for us, and wanted us to go back to the ship. I asked him if he could allow me half pay, when he asked me if I was married. I told him I was not married, and he then said he could not give me half pay. He then told me to call again at 3 o'clock, and I did attend at that time, when he gave me orders to be at the Havre boat on the following Monday morning at 8 o'clock to join the ship again, and he would pay my passage money to Cherbourg. I went to the Havre boat, as directed, Monday morning, the 23d of November instant, and saw Frank Barron, the yeoman of the *Georgia*, who introduced me to a strange clerk from Jones's office. He was a young man, about the middle height, without a beard, and whose name I have been informed and believe is John Welding. The clerk then said to me that he did not think I was coming, as I was so late. I then asked him if I was to go back to the *Georgia*, and he said yes. I then asked him to whom was I to report myself, when Barron answered that I was, of course, to report myself to

one of the deck officers when I reached Cherbourg. The clerk then asked me to sign two papers, which we thought were receipts, for £3, which he gave us to pay our passage round to Havre. I signed the receipt on a bale of goods on the dock quay. The clerk then asked me to go on board the steamer, when I made an excuse that I wanted to get a glass of grog with Glassbrook before I left. The clerk objected to our leaving, but he at last consented.

BENJAMIN CONELLY.

Sworn at Liverpool, in the county of Lancaster, the 24th day of November, 1863, before me,

J. PEARSON, *A Commissioner, &c.*

I, Catharine Stanley, of No. 26 Court Ovid street, Vauxhall road, Liverpool, in the county of Lancaster, wife of John Stanley, of the same place, cooper, make oath and say as follows:

I called at Mr. Jones's office about the 12th of April last, as directed by my husband, for the balance of his advance note, when I saw a gentleman with a moustache, who paid me the money. My husband had previously taken me to Jones's office and informed this gentleman I was his wife.

About the 9th of April last I received a letter from my husband, then cooper of the steamer Georgia, which letter is hereunto annexed, marked A, informing me that he had shipped in that vessel for three years, and that he had sent £10 for me by Mr. Jones, and desiring me to call upon him and receive it; and make arrangements about the half pay. I went to Mr. Jones's office the day I received the letter, and saw an elderly gentleman, with a reddish face, whom I have since been informed was Mr. Jones. He asked me what I was going to do with all that money; that it was quite unexpected for me to get it, and told me that if my husband stopped with the ship until the end of three years I should be independent. He then said that he had not sufficient money in the office to pay me then, and told me to call the next day. Mr. Jones also told me that I should get half pay. I called the next day, and saw a tall gentleman with a moustache, who paid me the £10, and I signed a receipt for it. The gentleman then told me to call on the 13th of June for half pay. I did call on the 13th of June, and saw the same gentleman, who paid me the money himself. I have called at Jones's office regularly every month up to the 13th of October last, and have been paid the half-pay; the same gentleman sometimes paid it to me, and sometimes the boy paid it.

I called, on the 14th November instant, as usual, for the half pay, when I saw the same gentleman, who told me he had no orders yet to pay me. He said that he had sent a telegraphic message about the matter, and he had no reply yet. He told me to call next day, which I did, but did not get any money, and I called daily up to the 18th November instant, on which day the boy paid me the money.

CATHERINE STANLEY.

Sworn at Liverpool, in the county of Lancaster, this 26th day of November, 1863, before me,

J. PEARSON,

A Commissioner to administer Oaths in Chancery in England.

A.

APRIL 7, 1863.

DEAR WIFE: I write this from a by-port in France, where we are taking in stores, and I am going in the ship, and I am sending you £10 to Jones's office, and I want you to go and receive it when you get this, and half pay, £2 10s. I have shipped for three years, and you must not think the time long. God bless you and the little children, and give them a kiss for me. Good-night, and God bless you. Give my love to my sister and all inquiring friends. No more at present, from your affectionate husband,

JOHN STANLEY.

This is the letter marked "A," referred to in the annexed affidavit of Catherine Stanley.

Sworn before me this 26th November, 1863.

J. PEARSON, *Commissioner, &c.*

I, Cecilia Glassbrook, of 53 Upper Hill street, Liverpool, in the county of Lancaster, wife of Francis Glassbrook, of the same place, able seaman, make oath and say as follows:

About the 10th of April last I received a note from my husband, Francis Glassbrook, then a seaman on board the steamer Georgia, which letter is hereto annexed, marked A, desiring me to call at Mr. Jones's office, 28 Chapel street, Liverpool, and receive from him £10, and to make arrangements for receiving my husband's half pay.

On the 13th April the wife of a seaman on board the Georgia, who had been to Mr. Jones's office for her money, called upon me and told me to call at Mr. Jones's office, which I did the same day, and received the £10 from a tall gentleman with a black moustache and an imperial. The same gentleman then told me to call in two months from that day to receive my husband's half pay. I asked the gentleman whether he could not give me a half-pay note, when he replied, "No; you won't want a note when you receive the money here."

I called at Mr. Jones's office on the 13th day of the first month after my husband sailed for my husband's half pay, having heard that the wife of another seaman on board the Georgia was receiving her half-pay that day, when I saw the same gentleman, who informed me that he did not think I would get it then, as they had received no news from the ship, and requested me to call on the 13th of the next month.

I did accordingly call on the 13th day of the second month after my husband sailed, and again saw the same gentleman, and he directed the boy to pay me my half pay, which he did. I then asked the same gentleman whether I could see Mr. Jones, as I had a letter to send to my husband, but he said he could send it without troubling Mr. Jones. There was an elderly gentleman with grey hair and whiskers standing close to him at this time, whom I have always been led to believe was Mr. Jones.

I have called regularly every month at Mr. Jones's office, and have received my husband's half pay, the gentleman whom I saw on the first occasion having each time directed the boy to pay it to me.

On the 13th day of November, instant, I called, as usual, at Mr. Jones's office for my husband's half pay, when the boy informed me I could not get it that day, and must call on the following Monday. I did attend on the following Monday between 12 and 1 o'clock, and the boy informed me that he could not

pay me until he had received a reply to a telegraphic message which had been sent to London. I waited at the office until nearly five that evening, when the boy informed me that they closed the office at six, and that I had better call early next day. On the following day I was taken ill and unable to go.

On Saturday last my husband brought a receipt for the last half pay, and told me that Mr. Jones would not pay it to him unless I signed the receipt, and I made my mark to such a receipt in the presence of my mother-in-law.

The letter marked B, hereunto annexed, I received from my husband whilst he was in Greenock, and the letter marked C, also hereunto annexed, I received from him whilst he was on board the Georgia.

her
CECILIA + GLASSBROOK.
mark.

Sworn at Liverpool, in the county of Lancaster, this 24th day of November, 1863, this affidavit having in my presence been previously read over to the deponent, who appeared perfectly to understand the same, and made her mark there-
to in my presence.

J. BUSHELL,
A Commissioner to administer Oaths in Chancery in England.

—
A.

APRIL 7, 1863.

DEAR WIFE: I could not get a chance to write to you before. I did write one letter to you. I hope you got it. Dear Celia, I have shipped in this ship and got £10 bounty, and £4 10s. per month, and I have left you half pay. When you receive this go to Jones's office and you will receive £10, and he will give you half pay, and ask him how you are going to write to me. Dear Celia, when you get this money start in some kind of business. Give my love to father and mother, Stephen and uncle, and tell them I hope I will be soon home again. I have shipped for the war in my own name. I have not got time to say more, but good-night and God bless you. I remain your ever-loving,

FRANCIS GLASSBROOK.

This is the letter marked A, referred to in the annexed affidavit of Cecilia Glassbrook.

Sworn before me this 24th day of November, 1863.

J. BUSHELL.

—
B.

GREENOCK, April 1.

DEAR WIFE: I have arrived safe on yesterday about 3 o'clock after a good passage. We have not heard where we are going to yet, but we think we are going to Nassau, or else to meet the Alabama. I never got ashore yet, so I did not get the money, nor did I see Lizzie. I can't tell when we are going to sail. Give my love to father, mother, Stephen, and uncle.

I remain your loving husband,

F. GLASSBROOK.

This is the letter marked B, referred to in the annexed affidavit of Cecilia Glassbrook.

Sworn before me this 24th day of November, 1863,

J. BUSHELL.

C.

SHIP GEORGIA, May 14, 1863.

DEAREST CELIA: You must be very anxious to get a few lines from me to know how I am getting on, but you can make yourself at ease, for I am very well, and could be very happy if I could hear from you, or even to know you are well and comfortable. Dearest Celia, I hope you had no trouble to get the money from Jones. You know that you was to receive £3. 10s in the name of Frank Rivers, and £10 in that of Francis Glassbrook, and likewise £2. 5s a month half-pay. Dearest Celia, I am afraid we will not do so well as the Alabama, but we must be content. I should like to hear how the war is getting on, or when it is likely to be over. We shall be discharged as soon as it is done. You need not fret about me being taken by the Yankees, for your half pay goes on still. Dearest Celia, I wish you to go to Jones and ask him how you are to write to me, and he will put you in the way of writing to me. I hope my father and mother, Stephen and uncle, are well. I dare say my poor mother is fretting about me. Remember me to your sister Anne and her children, and I hope she has heard good news from her husband. I hope Stephen is a good boy and keeping steady. If anything should happen to him, I hope you will look to my mother as long as you have a shilling, for if you love me you are sure to be kind to my mother. I don't see as I have any more to say at present, only that we are all well, and ready to take the first Yankee ship that comes in our way. I dare say there is a great talk in England about us, but the newspapers can tell you more than I can.

I shall conclude, by remaining still your ever-loving husband,

FRANCIS GLASSBROOK.

This is the letter marked C, referred to in the annexed affidavit of Cecilia Glassbrook, sworn before me this 24th day of November, 1863,

JOHN BUSHELL.

I, David Conolly, of 17 Temple Buildings, Liverpool, in the county of Lancaster, porter, make oath and say as follows:

About three weeks after my son, Benjamin Conolly, sailed in the steamer Japan, I received a letter through the post office from Messrs. Jones & Co., 28 Chapel street, Liverpool, requesting me to call at their office, as my son Benjamin had sent £9 for me, and desiring me to call for the money. I called at Jones's office the day after I received the note, and saw a gentleman with a moustache, and showed him the letter, when he paid me the money, a £5 note and £4 pounds in gold, and I signed a large sheet of paper containing the names of many persons. I signed under my son's name. I believe this paper was a list of the crew of the Japan. The note had the name Jones & Co. written on the back of it. I got the note changed in Dale street. The gentleman took the letter from me and put it on the file.

DAVID CONOLLY.

Sworn at Liverpool, &c., 30th November, 1863, before me,

J. PEARSON, *A Commissioner, &c.*

I, Eliza Conolly, of 17 Temple Buildings, Liverpool, in the county of Lancaster, spinster, make oath and says as follows:

On the 27th day of November, instant, I called at Mr. Jones's office, 28

Chapel street, Liverpool, to inquire whether he could tell me where I could find my brother, Benjamin Conolly, who had joined the steamer Japan, when I saw a gentleman with a moustache, and asked him if that office was Mr. Jones's, when he said it was. I then asked him whether he could tell me if my brother, Benjamin Conolly, had joined his ship any day this week, when he said he had not; and he then asked what was my reason for inquiring, when I replied that I was his sister, and thought it very strange that he had not written to us, and I also told him that my brother had promised to leave my father half pay. I then told him that my brother had left home between 6 and 7 o'clock on the morning of Monday last to join his ship, when the gentleman said he knew that he had, and that he had sent one of his clerks down to the Havre steamer to see him and Glassbrook on board, and that they got £3 each from his clerk and then they both bolted. He then called an elderly gentleman, and said to him that I was inquiring for those two vagabonds who had run away on Monday. He then asked me whether I knew Glassbrook, when I replied that I did not, and he said I had better go to Glassbrook's house and see if my brother was there. I asked for Glassbrook's address, and he began to write it down, when the elderly gentleman stopped him and said he was not to give it to me.

ELIZA CONOLLY.

Sworn at Liverpool, in the county of Lancaster, this 30th day of November, 1863, before me,

J. PEARSON,

A Commissioner to administer Oaths in Chancery in England.

FOREIGN OFFICE, *December 9, 1863.*

SIR: I have the honor to acknowledge the receipt of your letter of the 7th instant, enclosing a copy of a letter from the United States consul at Liverpool, covering a number of depositions, which you state all go to establish in the clearest manner the existence of a regular office at Liverpool for the enlistment and payment of British subjects, for the purpose of carrying on war against the government and people of the United States; and I have the honor to state to you that the papers shall be considered by her Majesty's government.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 556.]

LEGATION OF THE UNITED STATES,

London, December 11, 1863.

SIR: I have the honor to transmit a copy of my note to Lord Russell of the 5th instant, transmitting a number of depositions from Mr. Underwood, the consul at Glasgow, in the case of the Pampero, and likewise one of his lordship, in acknowledgment. Copies of the depositions are also appended.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,

Secretary of State, &c., &c.

[Enclosures.]

1. Mr. Adams to Earl Russell, December 5, 1863.
2. Deposition of John McGibbon, November 21, 1863.
3. Deposition of James Ross, November 23, 1863.
4. Deposition of John M. Barr, November 23, 1863.
5. Depositions of Wm. McCambridge and Wm. Carrick, November 23, 1863.
6. Earl Russell to Mr. Adams, December 5, 1863.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,
London, December 5, 1863.

MY LORD: I have the honor to transmit copies of several depositions furnished to me by Mr. Underwood, the consul of the United States at Glasgow, all relating to the outfit of the vessel called the Canton or the Pampero at that port.

I pray your lordship to accept the assurances of the highest consideration with which I have the honor to be, my lord, your most obedient servant,

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c., &c.

Deposition of John McGibbon.

I, John McGibbon, a riveter, residing at 63 King's street, Tradeston, Glasgow, in the county of Lanark, make oath and say: I have been eight months in the employment of Messrs. James and George Thompson, but was not all that time employed on the Pampero. I left the employment three days before she was launched. She was named the Canton, which name was in gilt letters on each side of her bow. It was the general opinion that name would be changed, and that chiefly for the reason that a ship's name is almost always carved or cut in, while the name Canton was only put on by temporary gilt letters. I saw that there were eight port-holes in the ship, besides two larger ones, (one on each side,) both when they were open and when they were closed. I saw also that ringbolts or gun-fasts were put on, (similar to those of the Black Prince, on which I wrought when she was being constructed,) and I knew that they were afterwards removed. Nothing is now visible of the port-holes except the hinges of the shutters which have been put on. The use of the eyebolts or gun-fasts is to fasten guns and move them backwards and forwards. The height of the ship's bulwarks was about seven feet. The number of stop-cock's and valves (there were six or seven on each side, with grating on the outside) is greater than is usually the case in other vessels. Some of these amidships are close to one another. I cannot say for what purpose there are so many, but there are more than would be necessary for engine and other purposes. They could be made useful in drawing the magazine if that were wished. Underneath the boiler seat and engine seat the vessel is plated, and there is a tier of plating above the engine, making her much stronger than any other vessel having a wooden bottom. I know of a magazine having been fitted up in the after-part of the ship with a hatch-hole capable of admitting a man. I observed there were at least one hundred and fifty lockers fitted up in said ship along the side in the forecastle, between decks. There are four or five water-

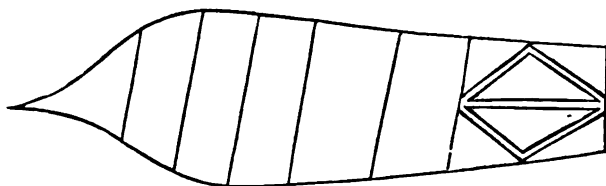
tanks between decks, between where the bunkers should be placed. I was not employed working on board the ship for some time before I left, but I was on board every day, at the meal hours, seeing what was doing. It was believed by myself and by all my fellow-workmen that the ship was fitted up as a vessel-of-war, intended for the government of the Confederate States of America; at least, it was so reported. The ship has no accommodation for such stowage as would be required by a vessel in the merchant service. The hatches were similarly constructed to those of other vessels, but smaller, and with regard to her rudder it was composed of brass plates and brass rivets, which is seldom the case with an ordinary vessel; and the propeller is of solid brass, which is also very unusual. These are generally made of cast iron. All this is truth, as I shall answer to God.

J. MCGIBBON.

Sworn before the collector at Glasgow, December 21, 1863.

Deposition of James Ross.

I, James Ross, clerk to Mr. Henry Miller, 13 Virginia street, Glasgow, and residing at 136 West Graham street, Glasgow, in the county of Lanark, make oath and say: That on this 23d day of November, 1863, I visited the yard of Danach & Espie, boat-builders and carpenters, Ardgowor street, Glasgow, and there saw two new life-boats and two new long or jolly boats, which are just completed; that these boats are presently being painted which is the last thing to be done to them; that I was informed by James Urquehart, the foreman boat-builder, and also by Duncan McDiarmid, a wright who was employed on them, that they were ordered by Messrs. James & George Thompson, and are intended for the ship Pampero, recently built by them; that each of said boats has six cross-beams, and provision is made for eight oars; that they are about twenty feet in length, and about eight feet in breadth of beam; that the said Duncan McDiarmid informed me that said boats are very strongly constructed, and that there is extra work at the stem of each of them, which is unusual in the other long or jolly boats; that between the stem itself and the aft cross-beams there is a tranverse piece of wood (black birch) eleven inches deep and four and a half inches thick, and there are besides four diagonal pieces to strengthen the former and keep it in its place, thus:



The said tranverse beam and diagonals are made movable so they can be taken out and replaced at pleasure. That in the centre of said beam is a hole which he stated was for a swivel, for the purpose of a gun being there placed and wrought. That McDiarmid stated that lately they were hurried to get said boats in readiness, but that now they are not so pushed for them. All which is truth, as I shall answer to God.

JAMES ROSS.

Sworn before the collector of customs, Glasgow, November 23, 1863.

Deposition of John McQueen Barr.

I, John McQueen Barr, clerk to Henry Miller, of No. 13 Virginia street, Glasgow, and residing at No. 80 New City Road there, make oath and say : That I know by sight a person calling himself Captain Sinclair, and another called Captain Tennant, and have been informed that both are from the Confederate States of America and connected with the government of those States ; that I am aware that both, as well as a Captain North, resided for some time at the Bridge of Allan and also in Glasgow ; that I know their lodgings in Glasgow to be in India street ; that on the second day of this present month of November I saw Tennant and Sinclair in company together at Bridge of Allan ; that I have been shown a photograph containing a group of four males and three females ; that one of the four represents Sinclair, and another is Tennant. It was from this that I first identified Sinclair in person, and he was afterwards pointed out to me as one of a number of American strangers who had been located there during the autumn months, and I was then informed he was named Sinclair. I had seen him at Bridge of Allan previously, though I did not know anything of him then ; that on the 31st day of October last I examined in Sterling the file of the Bridge of Allan Reporter, and selected the following from the list of visitors :

April 5, 1863.—Captain and Mrs. North, Miss North, Captain Sinclair, Confederate States of America, at Mrs. Lanark's, Belmair House.

May 8, 1863.—Captain, Mrs., and Miss North, Charleston, Virginia ; Captain Sinclair, at Belmair House.

July 5, 1863.—Captain, Mrs., and Miss North, Confederate States, at Belmair House.

March 28, 1863.—Mr. and Mrs. Tennant, at J. Miller's, Wellwood House. And I obtained the following information as to the several lodgings they had occupied : 1st. Mrs. Pattison's, Fountain Road ; 2d. Mrs. Smart's, Belmair House ; 3d. Miss McDonald's, Prospect Villa ; 4th. Mrs. Smart's again ; 5th. J. Miller's, Wellwood House ; 6th. Mrs. Young's, Anpeld Road—all Bridge of Allan.

That since the 9th day of the present month I have seen Sinclair several times in Glasgow.

All of which is truth, as I shall answer to God.

JOHN M. BARR.

Sworn before the collector of customs, Glasgow, November 23, 1863.

Depositions of William McCambridge and William Carrick.

I, William McCambridge, shipwright, of the town of Govan and county of Lanark, make oath and say : That on the day the vessel, called and known as the Pampero, arrived at the public crane on the Broomielan, in Glasgow, about four weeks ago, for the purpose of receiving her machinery, having some curiosity to see her fittings, &c., from the reports I had heard concerning her, I went on board of her, and went over nearly the whole of her, making such examination of her as I was able. From this examination, and from my experience as a shipwright, I state that many of her fittings were and are quite different from and unlike what are usual and customary on merchant vessels, whether screw or paddle-wheeled. The vessel Pampero is a screw steamer, having been built in the shipyard of J. & G. Thomson, near Glasgow ; but having been employed for two years as a shipwright in vessels-of-war of her Majesty's dockyard at Portsmouth, I saw at once that many of her fittings

were evidently those of a vessel-of-war. The engines and boilers of the Pampero, eight feet three inches in height, have been placed and are under the water-line, as is usual, for obvious reasons, in vessels-of-war, but very unusual in merchant vessels. At each end of the engine-room there is on the Pampero a donkey engine fitted that I have never observed on merchant vessels, but common on vessels-of-war. The deck beams of the Pampero are placed much closer together than on any merchant steamer I have ever seen, there being one riveted to every frame, and only eighteen inches from centre to centre. The decks, of red pine, are also unusually thick, being four and a half inches, and evidently calculated and intended to carry heavy weight on deck. The Pampero is provided with a double steering wheel, placed about six or eight feet under the upper deck, and on the upper deck there is another similar steering wheel. There were two yolks or tillers connected with these wheels under deck, with the necessary blocks and leads for tiller ropes, as in war vessels. At the interval of about four days after this first examination, I again went on board the Pampero, and found that the lower steering wheel had been removed, but that the tiles and fittings remained. The cabins on the upper or gun deck of the Pampero are all hinged for removal as a vessel-of-war, to enable the deck to be cleared for action, fore and aft. Her deck ports, or port-holes, of which there are eight on a side, are raised sixteen or eighteen inches above the main deck, showing they are not intended to carry off water or the sweepings of the ship. The hinges of the cabins and the raised position of the ports are appropriate to war vessels, but unusual and inappropriate to merchant vessels; and I give it as my opinion, judgment, and belief, as a shipwright, having worked at the trade for thirteen years, in merchant and war vessels, that the Pampero is built and intended as a vessel-of-war, and to be used for war purposes, and not as a merchant vessel. She has been so held and reputed to be in the yard of Messrs. Thomson, where she was built, and where I worked on her previous to the 15th of February last, by all hands, and to be intended for the Confederate States of America, being called and known in the yard as the second "Alabama," second "290," and such like names; and I have frequently seen two persons pointed out to me as Captains North and Sinclair giving directions and apparently superintending the work and operations in the Pampero as though they were interested therein; and I recognize and identify the two persons in the photograph shown to me of a family group, under which is written the names of North, Sinclair, and others, and here referred to. I further state that the Pampero has telescope funnels, which is very unusual in merchant vessels, but very common in vessels-of-war. I have worked in J. & G. Thomson's yard about five years previous to about the 15th of February last; since then in A. & J. Angle's, and have been intimate with Thomson's yard and hands up to this time.

WILLIAM McCAMBRIDGE.

Sworn before the collector at Glasgow, November 28, 1863.

I, William Carrick, shipwright, residing at No. 4 Ferrol street, Relimbaugh, near Glasgow, and county of Lanark, make oath and say: That I have heard the statement and affidavit of William McCambridge fully and distinctly read; that I was present with and accompanied the said William McCambridge, on both occasions and visits, to the Pampero, which he in his said affidavit and statement refers to and describes; and I fully and understandingly concur and agree with each and all of said descriptions and specifications of and concerning the vessel Pampero, and that the said Pampero is different from a merchant vessel and like to a war vessel in the parts and points he has designated and specified. I also unite and concur with him in the opinion that said vessel

Pampero was and is built and designed for war purposes, or a vessel-of-war, and not for a merchant vessel. I further state that I concur with him as to the general reputation of the Pampero as a war vessel, intended and built for the Confederate States of America, as also in regard to Captains North and Sinclair, the Confederate agents, superintending the building of said vessel. I therefore adopt said affidavit as my own, for the purpose of avoiding repetition, except so far as it relates to himself as a shipwright. I have never worked in any of her Majesty's shipyards, but have worked at the trade of shipwright for fifteen years last past. I worked in Thomson's yard three years, and am well acquainted with his hands.

WILLIAM CARRICK.

Sworn before the collector of Glasgow, November 28, 1863.

Earl Russell to Mr. Adams.

FOREIGN OFFICE, *December 5, 1863.*

SIR: I have the honor to acknowledge the receipt of your letter of this day's date, enclosing copies of several depositions furnished to you by Mr. Underwood, the consul of the United States at Glasgow, relative to the outfit of the vessel called the Canton or the Pampero at that port, and I have the honor to state to you that these papers shall be considered by her Majesty's government.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

C. F. ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

[Extracts.]

No. 557.]

LEGATION OF THE UNITED STATES,

London, December 17, 1863.

SIR: Despatches from the department, numbered from 762 to 774, inclusive, have been received this week at the legation. There has been no event of importance in connexion with American affairs. The public mind is becoming gradually affected by the accounts that are permitted to reach here of the state of the insurgents at home. Confidence in their ability to sustain themselves is declining.

Thus far the ill-disguised sympathy with the rebellion has been rather the breaking out of an instinct among the privileged classes that somehow or other their personal interests may be involved in the issue, than the result of any process of reasoning. It still remains stronger than ever. Circumstances thus far have not been favorable to a consolidation into any form of action. And they seem to grow less rather than more so. But the passion that prompts it survives in force. The true mode of counteracting its effects is to be found in the success that may crown the efforts at complete restoration in the United States. It is, therefore, to that point that the friends of liberal institutions here, as indeed all over the world, look with the greatest interest. Thus far the signs are full of hope. But the greater half of the task remains yet unaccomplished. The war is evidently drawing on to its termination. The popular unanimity that has carried it forward to its present stage will doubtless

continue as long as needed. It remains to be seen whether a pacification can be effected on such broad principles that the great ends of the war may be attained without essentially affecting the foundations of the system of government. This is the question, a happy settlement of which is indispensable to the future welfare, not merely of the people of the United States, but the friends of free institutions the world over.

In this sense many persons are awaiting with anxiety the exposition which it has been intimated that the message of the President, at the opening of the session of Congress will contain of the prospective policy of the government to meet the emergency.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 558.]

LEGATION OF THE UNITED STATES,

London, December 17, 1863.

SIR: I continue to send to Lord Russell such papers as are furnished to me, showing the character of the singular proceeding at Sheerness. I have now to transmit copies of my notes of the 12th and the 16th, with their enclosures. I have very little doubt of the complicity of the higher authorities in the dockyard, as well in the outfit as in the escape of the Victor.

I have likewise sent to Mr. Dayton copies of the papers enclosed in those notes. They serve to show the equivocal character of the steamer, which the French government seems rather precipitately to have recognized.

I likewise transmit a copy of a note received from Lord Russell last evening, in reply to mine of the 28th ultimo, and of the 5th instant. I have reason to believe that some rather stringent action is in contemplation against these rebel enterprises, but I have no idea what it is to be.

I learn that the whole of the cargo of one of the vessels reported to have been destroyed by the Alabama in the east is British property, and insured in London for fifteen thousand pounds.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington. D. C.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,

London, December 12, 1863.

MY LORD: I have the honor to transmit the copy of another deposition, furnished to me by Mr. Morse, the consul of the United States at London, going to show the nature of the proceedings that have taken place at Sheerness, in connexion with the sale of her Majesty's steamship Victor.

I pray your lordship to accept the assurances of the highest consideration with which I have the honor to be, my lord, your most obedient servant,

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c., &c.

I, Richard Spendiff, of Brightman's Court, Mile Town, Sheerness, do hereby truly, sincerely, and solemnly swear that I am a laborer, and on Tuesday, the 24th November last, in company with a man named Maloney, went to see Mr. Rumble, (having previously seen him about going to work on board the Scylla,) and got a note from him (Mr. Rumble) to an officer on board. I went on board the Scylla, late her Majesty's steamship Victor, in Sheerness harbor, and saw the captain, a person who acted as agent, and Mr. Rumble in the cabin. They offered me and others £6 for the trial trip, which we refused. Mr. Rumble said he thought it was quite enough; but we wanted £8. This they agreed to give each of us, and £1 5s. 6d. cash to pay our fares home. We then signed an agreement to go, I as leading stoker. We did not expect to go for some days, but in consequence of something that occurred we went to sea that night, and arrived at Calais Wednesday night, and went into harbor the next day, Thursday, the 26th November. Soon after we left Sheerness the ship's name was painted out of her stern.

Her Majesty's steamship Victor, while in ordinary, used to lie at her moorings on the west shore, Sheerness harbor. After she was sold she went into the basin in the dockyard, and was calked all over except her lower deck. This took about ten days. She then went back to her old moorings, and remained several days; then she went alongside her Majesty's ship Cumberland, and on Saturday, the 21st November, had her lower masts put in from off that ship, (the Cumberland.) She went to another part of the harbor off a place called Westminster. This was more convenient for the dockyard men to go to and fro. Some of her stores, rigging, provisions, &c., were put on board from sailing barks from London, as well as her coals, 150 tons, or thereabouts, which we stowed in her bunkers. The water (two casks) was put on board from the dockyard sailing tank about one or two o'clock in the afternoon, as we sailed at night. The Victor, or Scylla, had six boilers. Only five of them could be used when we left, and on the run two others broke down, so that we had three useless, viz., the high and low port, and the high starboard boiler. When we left her the only boilers in working order was the fighting ones. The magazine was in good condition, having been repaired since she was sold. The eyebolts to work her broadside guns were in. Her lower masts were not wedged after having been put in from the Cumberland; her standing rigging was on and set up, but not rattled down. She had no sails bent when she left the port of Sheerness. She had about eight riggers from the dockyard at work on her rigging. These men continued to work on her rigging during her run to and after her arrival at Calais. Mr. Rees, the master rigger of Sheerness dockyard, was on board when we left Sheerness, but returned in the tug. When she left Sheerness she was prepared to sling hammocks for about 150 men, the hammock hooks being in their places and the hammocks on board. The bedding for the same number of hammocks, with blankets, and remaining part of her stores, was put on board from the tug-boat that towed her to sea, after leaving Sheerness, coming alongside for that purpose. There was no water on board for a voyage, only the two casks before named. When we left Sheerness I consider (with my experience of seventeen years in the navy) she was not in a fit state to go to sea. When we arrived at Calais a new captain came on board, who told us he had been chief mate of the Alabama. He ordered all hands up and asked us if we would enter the confederate service. He said he would give each a bounty of £10, besides £8 per month, if we would sign articles for twelve months. He said the ship was a confederate man-of-war. She was to have eight guns and was to go to the Downs, and then to the north of Ireland, but that we might have to fight the American cruisers, as there were three of them outside the harbor waiting to catch us, and we should have to fight or run. He said his ship, the Rappahannock, was to cruise the same as the Alabama and Florida, and that we were to cruise for prize money. On the first Decem-

ber eight boiler-makers went over to Calais from the dockyard to work on board the ship. There were some men working on board the Scylla as stokers before I joined her. They came from Woolwich. I do not know their names.

RICHARD + SPENDIFF.
his
mark.

Witness to the mark of Richard Spendiff:
JOSHUA NUNN.

Sworn by the deponent, Richard Spendiff, at my office, No. 11 Birchen lane, in the city of London, this 8th day of December, 1863, the witness to the mark of the deponent being first sworn that he had truly, distinctly, and audibly read over the contents of the above affidavit of the said deponent, and that he saw him make his mark thereto. Before me,

WM. MURRAY,
A London Commissioner to administer Oaths in Chancery.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,
London, December 16, 1863.

MY LORD: I have the honor to submit to your consideration a copy of an extract from a letter addressed to me by Mr. Morre, the consul of the United States at London, together with an official copy of a paper which appears to prove that the vessel which escaped from Sheerness the other day, and now goes under the name of the Rappahannock at Calais, is actually owned and held by Robert Gordon Coleman, a British subject, doing business at No. 28 Clement's lane.

I trust I need not point out to your lordship that this proceeding involves either a gross fraud or a case of hostile equipment attempted by one of her Majesty's subjects. In either instance I cannot permit myself to doubt that her Majesty's government will take suitable measures to sustain the neutrality of the country against violation.

I pray your lordship to accept the assurances of the highest consideration with which I have the honor to be, my lord, your most obedient servant,

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c., &c.

UNITED STATES CONSULATE,
London, December 15, 1863.

SIR: I herewith forward to you an official copy of the register of the privateer Scylla, or Rappahannock. You will notice that she stands this day registered at the proper department of the English revenue service as a British ship. There has been no legal transfer, and the legal ownership at 3 o'clock this day was in Robert Gordon Coleman, No. 28 Clement's lane, London. So far, then, as the true ownership is shown by the papers required to make a legal transfer, she is a British privateer under the rebel flag.

English boiler-makers from Sheerness, and other mechanics, are still at work fitting her out, and seamen are almost daily sent to her from this country in small numbers at a time.

I remain, sir, your obedient servant,

F. H. MORSE, *Consul.*

HON. CHARLES FRANCIS ADAMS,
United States Minister at London.

FORM No. 219.

Copy register for transmission to chief registrar of shipping.

Official No. of ship..... 48554. Name of ship, Scylla.
 Port No..... 448. Port of registry, London. British or foreign built—British.
 Whether a sailing or steamship; } steam. Where built—in the river Thames, When built,
 } scrow. for H. M. Government. 1857.
 No., date, and port of previous registry, (if any.)
 No. of decks..... one. Build..... carvel.
 No. of masts three. Gallery..... none
 Rigged bark. Head..... woman figure.
 Stern square. Framework wood.

Tonnage.

	No. of tons.
Tonnage under tonnage deck	529. 11
Closed-in spaces above the tonnage deck, if any, viz: space or spaces between decks. Poop. Round house.	
Other enclosed spaces, (if any,) naming them.	529. 11
Deduct allowance for propelling power.....	296. 56
Register tonnage	232. 55

Measurements.

Length from the fore part of the stem, under the bowsprit, to the aft side of the head of the stern-post, 192 feet 7-10ths.
 Main breadth to outside of plank, 29 feet 6-10ths.
 Depth in hold from tonnage deck to ceiling, at midships, 14 feet 1-10th.

Additional particulars for steamers.

Deduction for space required for propelling power	Tons. 296. 56
Length of engine-room, (if measured,) 73 feet 4-10ths.	
No. of engines, 2.	
Combined power, estimated horse-power, 350.	

Names, residence, and description of the owners, and number of sixty-fourth shares held by each owner.

Robert Gordon Coleman, of 28 Clement's lane, in the city of London, merchant, 64 shares.

Dated November 6, 1863.

EDWARD SHEPPARD, Registrar.

N. B.—To be addressed in an envelope to the chief registrar of shipping, custom-house, London.

1 Rm. 3 | 63—H. & S. 592.

No. 219.—*Copy of register for transmission to chief registrar of shipping.*

References to transactions.

Changes of masters.

(Issued December 17, 1863.)

hereby certify the foregoing copy of certificate of registry to be a true copy.

H. MAYO, Registrar General.

GENERAL REGISTER AND RECORD OFFICE OF
 SEAMEN AND SHIPPING, London, December 17, 1863.

Earl Russell to Mr. Adams.

FOREIGN OFFICE, *December 16, 1863.*

SIR: The circumstances connected with the sale and subsequent removal from Sheerness of the vessel now called the Rappahannock, but formerly her Majesty's gun-vessel Victor, to which you called my attention in your letters of the 28th of November and 5th of December, have engaged the serious attention of her Majesty's government, and I have the honor to inform you that her Majesty's government are fully determined to take such steps as may legally be within their power to put in force the laws of this country against any persons who in this matter may appear to have transgressed them.

As regards the other vessels which, in your letter of the 28th of November, you state that you have reason to believe may be charged with the materials for the armament, and possibly with a portion of the crew of the Rappahannock, I have the honor to state to you that the collector of customs at Plymouth has reported that the Agrippina, which arrived at that port wind-bound on the 20th of November, sailed again on the following morning for Bermuda, having not shipped at Plymouth either cargo, crew, or passengers, and with her hatches battened down and her boats stowed away in the usual manner for a long voyage.

The Harriet Pinckney, whose destination was also Bermuda, put into Plymouth under stress of weather on the 21st of November, and has been obliged to discharge her cargo there in order to obtain necessary repairs, the completion of which will probably require considerable time.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

[Extracts.]

No. 559.]

LEGATION OF THE UNITED STATES,

London, December 17, 1863.

SIR: I transmit herewith the resolutions adopted at a public meeting held on the 1st instant, at West Hartlepool. * * * It is a singular feature of this struggle in America, that its merits should be debated at popular meetings held all over this kingdom. The associations of sympathizers with the insurgents have of late been assiduously engaged in sending paid agents to deliver lectures in behalf of their cause at various places. This has given occasion to counter efforts. Frequently discussions are held by representatives of both sides. I very much doubt whether anything precisely similar ever took place here before. The expediency of initiating such a practice, viewed purely as a domestic question, appears to me to admit of much doubt. * * *

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

RESOLUTIONS.

That this meeting in the town of West Hartlepool, convened by public advertisement, and under the presidency of Ralph Ward Jackson, esq., of Great-ham Hall, having heard from Edward Grubb, esq., of Rotherham, statements respecting the civil war at present being waged in the United States of America, is of opinion that the time is now come when it is proper to reaffirm the sentiment which has so long distinguished the British people against the system of slavery in all its forms; and in consistency with that sentiment, this meeting is further of the opinion that the conduct of the United States government, in the prosecution of the war, merits the approval and moral support of all Englishmen.

That a copy of this resolution be transmitted by the chairman of this meeting to the American legation in London.

Moved by the Reverend J. Martin.

Seconded by Mr. E. Lowden.

Adopted by the meeting, with two hands held up against it.

RALPH WARD JACKSON, *Chairman*.

DECEMBER 1, 1863.

Mr. Seward to Mr. Adams.

DEPARTMENT OF STATE,
Washington, December 17, 1863.

No. 786.]

SIR: Your despatch of the 27th of November (No. 545) has been received. We await with much interest the end of the prosecution in the case of the *Alexandra*. Meanwhile the bold and flagrant crime committed in the name of the insurgents here, by seizing the steamer *Chesapeake*, and using the British colonial coasts and waters as a base of their piratical operations, ought to bring home to the British government the discovery that its premature toleration of the anomalous belligerent is engendering a border war, which would be a sad and dangerous sequel to our unhappy insurrection.

Again, if the northern states of Europe are to become a theatre of a civil war in Denmark, with the intervention of foreign states on opposing sides, according to their sympathies or dynastic interests, it will soon become important to know by what code of neutrality our own conduct is to be regulated—whether the one we have set up, or the one that has been adopted by Great Britain and France in regard to ourselves.

The President thinks that her Majesty's government cannot fail to see the importance of removing all existing causes of discontent between their own country and the United States. I learn from your despatch that the perverseness of disunion agitators in Great Britain still continues to manifest itself in operations designed to influence Parliament at its approaching session. The most effectual way to quiet them would be to publish as widely as possible the (so to speak) official expositions of the leaders of the insurrection given forth by the conspirators themselves at Richmond. We cannot properly address ourselves to the press in a foreign country. Perhaps the subject may be thought worthy of Earl Russell's attention.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES F. ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 788.]

DEPARTMENT OF STATE,
Washington, December 19, 1863.

SIR: I give you herewith, for your information, a copy of the papers relating to the piracy committed upon the Chesapeake.

It is very desirable, if possible, that her Majesty's government should allow a surrender of the criminals. It would avert possible embarrassments, which I need not particularly indicate, and would manifestly be very useful in preventing the rise of border jealousies, a class of troubles always to be seriously deprecated.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES F. ADAMS, Esq., &c., &c., &c.

The papers above referred to are published in correspondence with the British legation.

Mr. Seward to Mr. Adams.

No. 789.]

DEPARTMENT OF STATE,
Washington, December 20, 1863.

SIR: I send herewith a copy, which has accidentally attracted my notice, of what purports to be an extract from an annual report of S. R. Mallory, who is pretending to act as Secretary of the Navy for the insurgents at Richmond. So soon as I can lay my hand upon a full copy of that paper I shall transmit it. In the mean time, it is proper to say that I have not the least doubt that the extract now sent is authentic.

It boldly avows the authority and activity of the insurgents at Richmond in the building of the rams in Great Britain and France on their account, and for their use in making war from British and French ports against the United States.

Secondly. It avows with equal boldness and directness the sending of twenty-seven so-called commissioned officers, and forty reliable petty officers from Richmond to the British North American provinces, to organize an expedition from thence to co-operate with the so-called army officers, in making war against the United States on our northern border lakes. And it confesses that this expedition has only been defeated through the watchfulness of the British provincial authorities.

Thirdly. In connexion with these two avowals, the same conspirator says that he has sent another courier with instructions, which will shortly be made apparent to the enemies of the insurgents nearer home, which may possibly mean instructions under which the actors in the piracy and murder lately committed on board the Chesapeake proceeded in that criminal enterprise from and returned to the British provinces of New Brunswick and Nova Scotia.

You will lose no time in laying this information before Earl Russell, and you will submit to him, as the opinion of this government, that the proof thus furnished is sufficient to remove all doubt that might yet be lingering over the objects, character, and designs of the builders of the steam-rams which her Majesty's government has recently detained in the British ports upon your representation.

Secondly. In the opinion of this government, a toleration in Great Britain, or in those provinces, of the practices avowed by the insurgents, after the knowledge of them now communicated to his lordship, would not be neutrality,

but would be a permission to the enemies of the United States to make war against them from the British shores.

Thirdly. It is the opinion of this government that to tolerate in the British realm or provinces, without some restraint, these avowed enemies of the United States, while carrying on the hostile practices now avowed, after the knowledge herein communicated, would not be an exercise of the unquestioned right of sheltering political exiles, but would be permitting them to use the British soil and British waters, and British vessels and armaments, to wage war against a country with whom Great Britain is at peace.

Fourthly. That in the opinion of this government it is the design of the confederates in these proceedings to involve Great Britain in a war with the United States, and, at least, that they have a direct tendency to produce that evil, which is mutually to be deprecated by both nations.

Fifthly. This government has borne itself towards that of Great Britain under these annoyances in the spirit and in the manner that have seemed best calculated to defeat the wicked design of the insurgents, without giving cause of offence or irritation to the British people.

Sixthly. That these new difficulties occur most unseasonably, at a time when the Congress of the United States are considering the question of legally terminating the so-called reciprocity convention, which regulates the commercial intercourse between this country and the British North American provinces—a question of deep interest to the whole British empire.

The President wishes that he was able to suggest to her Majesty's government any adequate remedy for the deplorable state of things to which I have referred, not inconsistent with the policy that Great Britain has adopted in regard to this insurrection. But, in the opinion of this government, that state of things has resulted, although unintentionally and unexpectedly on the part of her Majesty's government, from that very policy itself. The recognition of the insurgents, without navy, ports, courts, or coasts, as a belligerent naval power was deemed by them, and by ill-disposed British subjects conspiring with the insurgents, as an invitation to them to use British ports, navy, courts, and coasts, to make themselves the naval power they are acknowledged to be, and yet are not.

Indications of popular favor towards this design of the insurgents are not wanting in British communities. If we correctly understand occurrences of the hour, there are not only in the British provinces, but also in the British realm, and in its very Parliament, many persons who are engaged in advancing that design, or who at least are pursuing practices which they must well know necessarily tend to exhaust the patience of the United States, and to provoke our citizens, in self-defence, either to seek their avowed enemies within British jurisdiction, or to adopt some other form of retaliation. It must be manifest that this government can do nothing more to prevent that design than it has already done. If it is to be prevented, it would seem that something further than what has yet been done must now be done by her Majesty's government.

After making these frank explanations to Earl Russell in the spirit of perfect friendliness, and in the most respectful manner, you will for the present leave the whole subject for his just consideration.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Extracts from the report of S. R. Mallory, secretary of the navy of the rebel government.

During the months of July and August I sent twenty-seven commissioned officers and forty trustworthy petty officers to the British provinces, with orders to organize an expedition and co-operate with army officers in an attempt to release the confederate prisoners confined on Johnson's island, in Lake Erie. From time to time I learned that the arrangements made were such as to insure the most complete success. A large amount of money had been expended, and just as our gallant naval officers were about to set sail on this expedition, the English authorities gave information to the enemy, and thus prevented the execution of one of the best-planned enterprises of the present war.

In accordance with the order of the president, early in the present year I despatched several agents to England and France, with orders to contract for eight iron-clad vessels, suitable for ocean service, and calculated to resist the ordinary armament of the wooden vessels of the enemy. These ships were to be provided with arms, and designed expressly to break the blockade of such of the ports as were not blockaded by the iron-clad monitors of the enemy. Five of these vessels were contracted for in England, and three in France. Due precautions were taken against contravening the laws of England in the construction and equipment of the vessels. They have been completed; but owing to the construction of her neutrality law, the government of England stationed several war vessels at the mouth of the Mersey, and prevented their departure from England. Subsequently they were seized by the British government. Another and larger vessel has since been completed, but it is doubtful if she will be allowed to leave the shores of England, although it is believed the precautions taken are sufficient to exempt her from the fate of her consorts.

The vessels being constructed in France have been subjected to so many official visitations that I have forwarded instructions to cease operations upon them until the result of negotiations, now pending, shall permit our agent to resume work upon them. In this connexion it is proper for me to state that the great revulsion in popular sentiment, both in England and France, towards the confederate government, has rendered our efforts to obtain supplies from those countries almost abortive. In view of all possible contingencies, I have instructed the agents of this department to wait a more favorable opportunity for carrying out the instructions previously forwarded. By the last courier I sent instructions that will shortly be made apparent to our enemies nearer home. I do not deem it advisable to communicate any portion of these plans to your honorable body at the present time, for reasons perfectly satisfactory to the president.

Although the operations of our navy have not been extensive, I cannot overlook the services of Captain Semmes in the *Alabama*. During the year he has captured upwards of ninety vessels, seventy of which he destroyed, the others being either bonded or released. One of the greatest drawbacks this officer reports having experienced is the difficulty he now has in procuring full supplies of coal. The provincial English authorities have hitherto afforded him every facility, but recently they have interpreted their neutrality laws so stringently that our war vessels and privateers are much embarrassed in obtaining suitable supplies.

Mr. Seward to Mr. Adams.

No. 790.]

DEPARTMENT OF STATE,
Washington, December 21, 1863.

SIR: I have received a despatch from Mr. Dudley, our consul at Liverpool, bearing date the 4th instant, (No. 194.) with numerous accompaniments, relative

to the Georgia, formerly called the Japan, and subsequently the Virginia. He informs me that he has sent copies of the affidavits in the case to you.

You will be pleased to confer with Mr. Evarts upon the subject, and exercise your judgment as to the expediency of prosecuting the parties implicated in the transactions disclosed by the depositions; and you will also, if you deem it advisable, use the facts established therein in support of my despatch of yesterday, No. 789.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

[Extract.]

No. 560.]

LEGATION OF THE UNITED STATES,
London, December 22, 1863.

SIR:

In regard to the deposition of Francis Glassbrook, referred to in your No. 775 of the 2d instant, as obtained from Mr. Dudley, you will have received ere this my despatch No. 555, a copy of another affidavit of the same person of a much more decisive character, which I received from Mr. Dudley, and sent in to the British government.

I perceive from the newspapers of this morning that orders have been issued to dismiss all persons from the naval reserve, and forfeit their allowances, who have been enlisted in any of the rebel vessels.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 561.]

LEGATION OF THE UNITED STATES,
London, December 22, 1863.

SIR: I have the honor to transmit copies of my note to Lord Russell of the 14th, and of his replies of the 16th and 17th instant, respecting the allegation of enlistments on board the Kearsarge at Queenstown. From the tone of his lordship I am led to infer the government is not altogether satisfied with the replies given by the consul and Commander Winslow; if so, it is not unlikely that the complaint may be transferred to Washington. I have for that reason abstained from entering into the question here any further than is necessary to state the views of the respective officers.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS

Hon. WILLIAM H. SEWARD, &c., &c., &c.

[Enclosures.]

1. Mr. Adams to Lord Russell, December 14, 1863.
2. Lord Russell to Mr. Adams, December 16, 1863.
3. Same to same, December 17, 1863.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,
London, December 14, 1863.

MY LORD: In reference to the note of the 30th of November, which I had the honor to receive from you, respecting certain allegations made against the commander of the steamer Kearsarge, I now transmit the copy of a note addressed to the consul by that officer. It would appear from this that he disavows all intention of violating the laws of this kingdom in enlisting men for the service of the United States. Whatever may have been done seems to have been carried on without his knowledge; and, when he discovered it, he took prompt measures to rectify the error by returning to port and landing the men.

I beg leave to add, that I have transmitted copies of all the papers connected with this subject for the consideration of my government.

I pray your lordship to accept the assurances of the highest consideration with which I have the honor to be, my lord, your most obedient servant,

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c., &c.

Earl Russell to Mr. Adams.

FOREIGN OFFICE, *December 16, 1863.*

SIR: I have the honor to acknowledge the receipt of your letter of the 7th instant, enclosing an extract of a letter dated the 4th instant, from Mr. Eastman, the United States consul at Cork, stating that he did not know of a single shipment of seamen on board the United States steamer Kearsarge, nor of the hiring or engagement of any, and that he had no doubt, if any such shipments had taken place, he should have had some information of it; and further, from the positive assurance of the captain and his officers, he cannot believe that the captain or his officers did, during the stay of the vessel at Queenstown, commit the acts represented to her Majesty's government which formed the subject of my letter to you of the 30th of November, namely, the enlistment of men to serve on board the Kearsarge.

With reference to this statement, I think it right to inform you that a report, dated December 7, has been received by the board of admiralty, from the port admiral at Queenstown, stating that the Kearsarge had arrived off the harbor in the morning, and shortly afterward, fifteen seamen were landed from her in a pilot-boat. These seamen stated that they were shipped between the 2d and 5th of November last, whilst the Kearsarge was wind-bound at Queenstown, and that they were regularly entered as part complement of the ship on arriving at Brest.

It appears, further, from the admiral's report that the commander of the Kearsarge was perfectly aware of her Majesty's proclamation, and of the statute law bearing on the point, and had a copy of the proclamation in his possession; and that he had stated to the admiral, in the presence of the United States consul that he did not want any men, and only wanted a clerk.

The admiral adds, that on the morning of the 7th the United States consul, Mr. Eastman, read to him a letter which he had received from the captain of the Kearsarge, saying that a number of men were found secreted on board that vessel after her departure from Queenstown, on the 5th of November, and that he would have landed them at Brest, but that doing so would have put them into the hands of the confederate war steamer Florida, and that he now sent them on shore at Queenstown.

The discrepancies between the statements which I have thus recited, together with the statements set forth in my letter of the 30th of November, and those which have been transmitted to you by the United States consul at Queenstown, will not fail to attract your attention, and will doubtless suggest to you the propriety of making still further inquiry from your own consul as to the part taken by him in the enlistment of these men.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES F. ADAMS, Esq., &c., &c., &c.

Earl Russell to Mr. Adams.

FOREIGN OFFICE, *December 17, 1863.*

SIR: I have the honor to acknowledge the receipt of your note of the 14th instant, respecting the seamen embarked on board the United States steamer Kearsarge at Queenstown.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 563.]

LEGATION OF THE UNITED STATES,
London, December 24, 1863.

SIR: Mr. Morse, the consul at this place, has just furnished me with a number of depositions in regard to the proceedings at Sheerness in the case of the *Scylla*, *alias* Victor, *alias* Rappahannock. I thought them so strong that I immediately transmitted them to Lord Russell, with a note. Copies of these papers are subjoined.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

LEGATION OF THE UNITED STATES,
London, December 23, 1863.

MY LORD: I have the honor to submit to your consideration a copy of a letter received from Mr. Morse, the consul of the United States at this port, together with copies of seven depositions of persons who testify to the proceedings connected with the outfit and departure of the steamer *Scylla*, Victor, or Rappahannock, from Sheerness, and her later condition at Calais.

It is with the most profound regret that I am forced to the conclusion that the entire movement has been conducted with the connivance and direct aid of many of her Majesty's officers stationed within the royal dockyard at Sheerness. The testimony in regard to the masts furnished from the Cumberland, the supply of water and some other stores, the aid of a government pilot, and the privacy of many of the officers of the yard to the employment of the hands, appears to be very conclusive.

The agency of Mr. Coleman, a British subject, and the apparent owner of a vessel now pretending to claim the protection of the French government as a belligerent ship-of-war, seems also to require notice: Mr. Coleman is thus presented as a person carrying on war with the United States; or else he is making himself a party to a gross fraud upon the government of France, with the intent to violate the neutrality enjoined upon him by her Majesty's proclamation.

I have felt it my painful duty to bring to your lordship's notice these particulars of this most extraordinary case, not from any doubt of the determination of her Majesty's government, already signified to me, to do justice in the matter, but from a sense of an obligation to do everything within my power to contribute to the exposure of the offenders.

I pray your lordship to accept the assurances of the highest consideration with which I have the honor to be, my lord, your most obedient servant,

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c., &c.

UNITED STATES CONSULATE,

London, December 23, 1863.

SIR: I herewith enclose affidavits of Enoch Cohen, George Hill, James Munn, Charles Newton, James Maloney, William O'Kelly, and George Bailey, in the case of the privateer Victor, Scylla, or Rappahannock.

Permit me to call your attention to the date of the advance note given to Charles Bull, a seaman, and which was, some days after, paid by Robert Gordon Coleman, No. 28 Clement's lane, London, who appears by the record evidence to be the lawful owner of the privateer Rappahannock, now under the confederate flag. The Victor, or Scylla, escaped from Sheerness on the evening of the 24th of November. The note was given when the man Bull was shipped, on the 25th of November, and was paid by Coleman on the 11th of December. So far as any recorded evidence shows ownership, the legal title to the rebel privateer Rappahannock is still in R. G. Coleman, a London merchant. The papers herewith and previously sent to you prove that he has interested himself in supplying his corsair, now under the confederate flag, since she left Sheerness, and since she hoisted that flag, with a large number of seamen. Mr. Coleman's connexion with the purchase, fitting, and manning of the Rappahannock is too clearly established to be called in question.

Should it be urged, as a reason for not making any effort to reclaim the Rappahannock as a piratical British ship under a foreign flag, or to prevent her from proceeding to sea as a privateer, that an English ship can be sold to foreigners without a cancelling of her register in this country, and that Mr. Coleman may have sold her since she left this country, we reply that so far as is known he is still the owner; that the legal record of ownership shows her *to-day* to be an English ship, and that it is incumbent on the authorities here to prevent her from piratical acts, or to show that all title to her has *legally* passed from citizens of this country to foreigners, and that she is now lawfully held by such foreigners.

It is a question of some interest to know how, in the present state of European law in reference to privateers, a rebel cruiser can commence her piratical career, from a European port, with papers that will be respected, or rather that ought to be respected, by the maritime powers of Europe. Who has authority to issue such papers, and to claim for them the acknowledgment and respect of maritime states?

I would also respectfully ask your attention to the date of the engagement with the boiler-makers, at the Sheerness dockyard, by Engineer Rumble, and

Mr. Bagshaw, a foreman in the boiler department, in which transaction Mr. Groathead, a chief engineer in the royal navy, also participated, as paymaster to the families of the men at Sheerness, in the absence of Mr. Rumble. The engagement of these boiler-makers, to go to Calais to repair the boilers of the privateer Rappahannock, was five or six days after that steamer left Sheerness, and some four days after her arrival at the port of Calais, in France, under the rebel flag, and after she had been announced in the newspapers of England as a rebel privateer escaped from an English port.

Very sincerely, your obedient servant,

F. H. MORSE, *Consul*.

Hon. C. F. ADAMS,
United States Minister, &c.

Advance note.

£3 15s.

LONDON, November 25, 1863.

Three days after the ship S. S. Stella, *pro tem.*, leaves Downs, pay to the order of Charles Bull (provided he sails in the said ship, and is duly earning his wages according to his agreement) the sum of three pounds fifteen shillings, being one month's advance of wages.

THOMAS ANSON, *for Master*.

Messrs. GORDON & Co.

Payable at 28 Clement's lane, city.

The seaman must write his name on the back hereof; by this act he will understand he is conveying to another the value of the note. If he cannot write, his mark must be attested by a witness, not the discounter of recipient.

N. B.—The seaman must join the ship at the time appointed, or a substitute will be engaged. Ship lying in or _____. Time to join _____.
Sold by J. Omer, 99 Meriones, London, Navigation Office.

Endorsed at back:

his
CHARLES X BULL.
mark.

Witness: N. COHEN.

This is the paper writing referred to in the annexed affidavit of Enoch Cohen, sworn before me, this 11th day of December, 1863.

JOHN CASTLE GANT,
A London Commissioner, &c.

I, Enoch Cohen, of No. 9 Palmer street, Spitalfields, do solemnly swear that the foregoing paper writing is a true and faithful copy of an original advance note, received by me from N. Cohen, tailor and outfitter, of Wells street, Well Close Square, to collect, the said note having been given to Charles Bull, able seaman, as advance for wages to be earned on board the steamship Stella, or Scylla, or Rappahannock, then lying at Calais. I had two other advance notes from seamen named John Dewslip, A. B., and Abraham Butler, boy, which were given them at a public house in Royal Mint street. I received the money for the last two notes at the office of Mr. Robert Gordon Coleman, 28 Clement's lane, and Charles Bull's note was paid me at Mr. Pearson's office, No. 9 Clement's lane, by a Mr. Daley.

ENOCH COHEN.

Sworn at my office, No. 57 Nicholas lane, in the city of London, this 11th day of December, 1863, before me,

JOHN CASTLE GANT,
A London Commissioner, &c.

I, George Hill, of Hythe, Kent, sailmaker, late of her Majesty's steam frigate Emerald, having been paid off from that ship about two months since, do solemnly swear that in the beginning of November last, upon applying to Mr. Rumble, her Majesty's inspector of machinery afloat at Sheerness, for a ship, he sent me on board the screw steamer Scylla, late her Majesty's screw steamer Victor, to work as sailmaker. I remained on board until the 24th of November, on the night of which day the ship suddenly left for Calais. Upon arriving there, another captain took command, and wanted me to sign articles, at £10 per month, in her. I was then told she was a confederate man-of-war, and was to have had £10 bounty. I refused to serve in her, and received £3 only, with which to return to London. Several of the men who joined her in Calais signed articles there, after knowing what she was. When I joined her she had no masts in her. They were afterwards put in by her Majesty's ship Cumberland. The Scylla was but one-quarter rigged, and not in a fit state to go to sea, her rigging not being rattled down.

GEORGE HILL.

Sworn 12th day of December, 1863, before me,

JOHN CASTLE GANT.
A London Commissioner, &c.

I, James Nunn, lately residing at No. 2 Union Row, Sheerness, able seaman, do solemnly and truly swear that on October last, while at work in Sheerness dockyard, I was asked by Mr. Rumble, her Majesty's inspector of machinery afloat at Sheerness, to join the screw steamer Scylla, of London, and go to work upon her at once. He told me she was a merchant ship, and was to be fitted up for the China opium trade. I went to work on her, at his recommendation. She was under the command of Captain Ramsay. On the 24th of November, at night, she suddenly left her port, and on the following day put into Calais harbor. Captain Campbell then took command, and I was told by him that she was a confederate man-of-war, and he asked me to join, but I refused. Before I left the ship forty men came from London to join her, but they all refused to sign articles with the exception of seven, who remained on board and signed articles there. I received only £2 10s. for my month's work, and had to pay my carriage back to this port, and Captain Campbell detained my discharge. I am now destitute, and cannot obtain a ship in consequence of his detaining my discharge. While I was on board she was taken to No. 3 dock, Sheerness dockyard. She had her bottom scribed, and the copper repaired, her topsides calked and painted.

JAMES NUNN.

Sworn, &c., 12th December, before me,

JOHN CASTLE GANT,
A London Commissioner, &c.

I, Charles Newton, of Sheerness, do hereby truly, solemnly, and sincerely swear that I went to work on board the screw steamer *Scylla*, late her Majesty's screw steamer *Victor*, at Sheerness, about the middle of November, having been engaged by Mr. Howe, who paid me for working on board 3s. 6d. per day. On the 24th November I went on the ship at 6 o'clock in the evening with a Trinity pilot, and commenced getting the wheel ready and other preparations for going to sea. At about 7½ o'clock Mr. Reuben Harvey, the government pilot, came on board and took command of the ship. In the night she left Sheerness in tow of a tug-boat. *I was at the wheel*, and received orders from Mr. Harvey; about a mile and a half below the Nore the ship was brought up, and laid there till morning; then got under way and proceeded to Calais. I staid by her until the following Wednesday. Mr. Ramsay wanted me to sign articles, but I refused. The wages were too low, and I did not like the first lieutenant. I knew she was a confederate man-of-war when I was asked to sign articles, as the confederate colors were sent up just before we entered Calais harbor. I did not know which service she was for when I joined her, having been told and heard it talked about that she was for the opium trade or confederate service. When I was asked to sign articles we were all told that the steamer was a confederate man-of-war, and that we should receive prize money as soon as we had taken the prizes. The captain said we were to fight for money, and he was going to fight for his country and his home. I then received £3 0s. 6d. in the cabin, in the presence of Mr. Rumble and Mrs. Rumble, and left the ship. When I first went on board the water police were upon the ship, and some new government warps and other stores were on board. Mr. Rees, the master rigger of Sheerness dockyard, went in the boat with me, and some riggers were at work on board from the dockyard. Mr. Rees had with him a black bag, with some stripped blocks. These warps and blocks were on board when I left the ship at Calais. The vessel was not completely rigged. Her masts had been put in from the *Cumberland*, but the rigging was not rattled down. Hammocks were on board in bales, and four boats were received on board from the tug-boat. Before we left Sheerness her shell-room and magazines were up and in good condition.

CHARLES NEWTON.

Sworn, &c., 21st December, 1863, before

JOHN J. ANDREW,
A London Commissioner.

I, James Maloney, of Sheerness, fireman, do hereby solemnly and truly swear that I went to work on board the screw steamer *Scylla*, late her Majesty's screw steamer *Victor*, about the 10th November, having been engaged by Mr. Rumble, at one guinea per week and my food. The wages were paid to me regularly by Mr. Rumble, at his house, before the vessel started from Sheerness. I was working on board as fireman, and assisted in removing stores, &c., about decks until the day before we left, when I commenced working in the engine-room. On the 24th November a gentleman, who had arrived from London, came on board. We were suddenly ordered away, and left Sheerness that night, the vessel not being in a fit condition to go to sea, the boilers requiring new tubing, some of which had been put on board at Sheerness. The rigging was not rattled down; she had no sails bent, and everything was in disorder. A large number of new hammocks had been put on board. The magazine and shell-rooms were in good condition, but nothing had been completed fit for a sea-going ship. Eight riggers were working on board from the government dockyard when we left Sheerness. The *Scylla* was towed to the Nore, and anchored a little below until the morning; then steamed to Calais harbor. The

riggers remained on board two days after her arrival at Calais, and some boiler-makers were sent from Sheerness dockyard to work on board. They took their orders from Mr. Rumble, who was inspecting the machinery there. He came over with his wife for that purpose, I should think. I was called aft, with all hands on board, by the captain upon the second day after we arrived at Calais, who wanted us to sign articles. He read the articles, and stated that the ship was a confederate man-of-war, and that we were to fight for prize money, and that he could fight for love of country. I refused going, as the wages were not satisfactory. Mr. Ramsay had promised us in Sheerness £8 per month, but the captain only offered £6 2s. 6d. I did not want to go in her at all after finding what employment we were wanted for. I then received £2 2s. 6d. and left the ship. As I was going on board the steamboat to return to England Mr. Rumble met me on the pier, and told me to return to the Scylla and go to work with the boiler-makers, which I did at his request, and worked for fourteen days. I was only paid for eight days' work. When I left the ship the boiler-makers from the dockyard were discharged, and Mr. Rennie's men went to work, Mr. Rennie having taken a contract to complete the boilers and machinery and fit her for sea service.

his
JAMES + MALONEY.
mark.

Witness to the mark of James Maloney: JOSHUA NUNN.

Sworn by the deponent, James Maloney, at No. 5 White Hart Court, Lombard street, London, the 21st December, 1863, the witness to the mark of the deponent being first sworn, &c., &c., before me.

J. J. ANDREW, *Commissioner, &c.*

I, William O'Kelly, of 41 Smith street, Mile End, London, do truly and solemnly swear that on the 24th November last I went to Sheerness to make inquiries about a voyage, hearing that Mr. Rumble, inspector of machinery afloat of her Majesty's dockyard, Sheerness, was engaging a crew for a steamer called the Scylla, formerly her Majesty's screw steamer Victor. I arrived at Sheerness at 9½ p. m. I heard the steamer was in port, but not ready for sea, and that she wanted hands. Early next morning I found that she had gone in the night, having left in great haste, and in an incomplete state, soon after midnight. Not believing she had gone in that condition, as she was not fitted for sea, I saw Mr. Rumble about 8 o'clock a. m., and told him that hearing men were wanted for the Scylla, I had come down to make inquiries for a number of seamen who were in want of a ship. He said, You are too late, for the ship has gone, but that she still wanted about twenty men, and that if I would call at Mr. Coleman's, No. 9 Clement's lane, London, the next morning, Thursday, 26th November, I could learn more particulars about it, and perhaps meet him there. I went to No. 9 Clement's lane, according to appointment, but did not see Mr. Coleman or Mr. Rumble. On Saturday, 28th November, I called again at No. 9 Clement's lane, but found, instead of Mr. Coleman, a Mr. Pearson. I told him that I had called to see Mr. Rumble by appointment, but had been unable to find him, or the place, as he gave me the name of Coleman, at whose office I was to call. Mr. Pearson said, Mr. Rumble is here now; would you like to see him? I replied yes, and Mr. Rumble came out from an inner office. I told him I had come respecting the men I spoke to him at Sheerness about. He asked me if I could get some good men, as he should like the best going, but would not like to give an order at present. I said I would call again in a few days, and on Thursday, 1st December, I went again to No. 9 Clement's lane, and saw Mr. Rumble. He informed me he had nothing to do with the

ship now; and said she had been bought by Mr. Pearson, but belonged to Mr. Coleman, as Mr. Pearson was a bankrupt, and unable to purchase at present, and that Mr. Coleman and Mr. Pearson were brothers-in-law. After some further conversation respecting the crew, I asked him where the captain was to be found. (Mr. Rumble had told me that he had nothing further to do with her, and that Captain Campbell had command now.) He answered in Calais, and advised me to go there and see him myself. I started same night by train, at 8.35 p. m., and arrived at Calais at 1 a. m. on the 2d December. At daylight I went down to the pier, and spoke with one of the men who had been brought from London to join the Scylla the night before, and afterwards spoke with one of the men from Woolwich, who came to join her, but in consequence of discovering what she was, had left her, as nearly all had done. He informed me that all the Woolwich men had been engaged by Mr. Rumble. Others of the crew then came up and said they would not go in the ship, as the first lieutenant had been on the lower deck, discharging his revolver with blank and ball cartridges, and swearing that he would shoot the first man that attempted to leave the ship, and all appeared much disgusted with the treatment they received. I then went to the ship, and on the pier met Mr. Rumble and the chief mate, Mr. Ramsay. Mr. Rumble wanted to know what brought me to Calais. I repeated his recommendation, and he then said, Mr. Ramsay had caused him all the trouble with the crew. Mr. Rumble then took me to Meurice's Hotel, and I saw Captain Campbell, who asked my business. I informed him that by Mr. Rumble's advice I had come to see if he wanted a crew. He said he should not require a crew for six weeks, but afterwards gave me to understand I should do the business. I thanked him and left the court yard, and was joined by Mr. Rumble. In the course of conversation Mr. Rumble said, Now this is a money-making job, and we must work together, and share the profits, to which I agreed; and before he left he gave me a sovereign to help me, and as an earnest of his intentions, and he desired me to meet him at Mr. Pearson's office, on Saturday, the 5th December. I went and after waiting about nearly all day did not see him, neither have I seen him since. Before leaving Calais Mr. Rumble said he should want me to supply about forty men. I have not been able to see Mr. Rumble since, having been confined to my house by illness.

WILLIAM O'KELLY.

Sworn at my office at No. 5 White Hart Court, Lombard street, in the city of London, this 21st day of December, 1863, before me,

JOHN J. ANDREW,

A London Commissioner to administer Oaths in Chancery.

I, George Bailey, of Sheerness, do hereby solemnly and truly swear that on Monday, the 30th November, I, with Thomas Gifford, William Barber, William Mitchell, James Morley, Joseph Govel, William Ellis, and Joseph Williams, arranged with Mr. Bagshaw, the leading hand of the boiler-makers afloat, to go to Calais and work on board the screw steamer Rappahannock, late her Majesty's screw steamer Victor. We went with him to Mr. Rumble's house. He went in, and we waited outside. He brought out with him three five-pound notes to pay our expenses to Calais. We thought that not enough, but Mr. Bagshaw said he had asked Mr. Rumble for more, but could not obtain it. He said, however, that those who wished to leave a note of hand for their wives to receive might do so, and that Mr. Grenthead, a chief engineer in the royal navy, would pay them £2 each on the following Friday. Gifford, Mitchell, and myself left orders

for our wives. We were told that the job would take from ten to twelve days to complete. We applied for leave of absence for fourteen days to Mr. Baffey, the leading man in the boiler-shops, who inquired where we were going, and was told we were going to Calais to repair the boilers of the Rappahannock. He said, "I cannot let eight of the best men in the shop go away on leave for so long a time, as I have so much work on hand here, which I must get done before a certain day;" but that he would see Captain Wise, the superintendent of the dockyard about it. Captain Wise said, If they go, they must go on their own account. No objection was made to our going, and we received no advice to stay away. We thought as Mr. Rumble and Mr. Bagshaw had the job in hand it would be all right when we got back, as they had promised to get us leave of absence. If I had thought that my leaving for Calais would have endangered my place in the dockyard, I should not have gone.

We went the next day, the 1st of December, to Calais, accompanied by Mr. Rumble. Upon arrival, we went on board the Rappahannock, and Mr. Ferguson, the chief engineer, showed us our work. There were no tools to work with on board, but we were informed that some would come. The next day a gentleman brought some steel drifts on board. That is all the tools I saw. I found that there were at least 1,400 tubes to be put in, the old ones were not drawn from the boilers. We began to draw them at once, and I knew that it would take at least two months to fit the tubes as they were fitted before, or not less than six weeks, in the quickest and least expensive manner, so that they would answer, provided all the boilers were new tubed, as the chief engineer had desired; but she could be got to sea in a less time if only a part of the boilers were new tubed. Not feeling sure or comfortable after staying four days, I left Calais for Sheerness, as I thought it better to return to my former work. When I arrived at Dover, I found Mr. Rumble had returned by the same boat. He sent for me and asked my reason for leaving Calais, and wished me to return, offering me £10 to do so. I asked him what he had done about our leave. He said he knew nothing about that, but that it would be all right. I refused his offer, and said I would not go back until I had first been home. On arriving at Sheerness, I applied to our leading man, Mr. Baffey, to return to work. He informed me that I and the seven men that went with me to Calais were all discharged, by order from the admiralty, as we had been away without leave, and that we could not be readmitted. I found that Mr. Greathead had sent my wife the £2, as promised.

Mr. Henry Elmer, the third engineer, returned on Friday, the 11th of December, and he has since told me that he had left the Rappahannock because they wanted to humbug him respecting the pay. Mr. Carr, the second engineer, has also left. I have seen him since his return.

It would have taken the eight men at least two months to complete the repairs on the Rappahannock, if they had been provided with the best tools. As it was, they could not have done it at all. Other men came from Mr. Rennie's yard, London, and took the job out of the hands of the dockyard men.

GEORGE BAILEY.

Sworn at London, the 22d of December, 1863, before

JOHN J. ANDREW,
A Commissioner, &c.

FOREIGN OFFICE, *December 17, 1863.*

SIR: I have the honor to acknowledge the receipt of your letter of the 16th instant, enclosing further papers respecting the case of the Rappahannock, and I have to inform you that the same shall receive the consideration of her Majesty's government.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

*Mr. F. W. Seward to Mr. Adams.**

No. 791.]

DEPARTMENT OF STATE,
Washington, December 26, 1863.

SIR: Your despatch of December 4 (No. 548) has been received, together with the correspondence which has taken place between Earl Russell and yourself, concerning an alleged violation of the foreign enlistment law of Great Britain by the commander of the United States steamship Kearsarge at Queens-town, in concert with the United States consul at that place. Your reply to Earl Russell is approved.

You will immediately investigate the charge against both these officers, and will communicate the result to this department. If you find the charge sustained against the consul, you will, without waiting further instruction, dismiss him from his office, and make a temporary appointment in his place.

You will assure Earl Russell that if the charge shall be sustained against the commander of the Kearsarge, he will be promptly relieved of his command, and other satisfactory amends will be offered to her Majesty's government.

It would seem proper that you should express to Earl Russell our desire to be furnished with such proofs as he may have, in addition to those contained in the affidavits of which you have been furnished by him with copies.

You will inform Earl Russell that his complaint against the commander of the Kearsarge has been submitted to the Navy Department, and that the Secretary will at once call upon the commander for an answer thereto, without awaiting the report of your investigation of the subject.

I am, sir, your obedient servant,

F. W. SEWARD,
Acting Secretary.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

[Extracts.]

No. 564.]

LEGATION OF THE UNITED STATES,
London, December 31, 1863.

SIR: I have to acknowledge the reception of despatches, numbered 782 to 785, inclusive; likewise copies of the President's message at the opening of Congress, and two bound volumes of Commercial Relations in 1862.

The message has, on the whole, met with a more favorable reception here than any preceding one under the present administration. It is construed as indicative of a restoration, both in the government and the people, to a state of consolidation which had not been looked for, and I may perhaps justly add, by no means desired. On the other hand, the address of Mr. Davis has done much to confirm the impression that the power of rebel resistance is gradually passing away.

* * * * *

* For Mr. F. W. Seward to Mr. Adams, 27th and 28th of December, see Appendix to correspondence with Mr. Adams.

In a review of the unfavorable appearances tending to such a result, which appeared in the same newspaper [The Times] a day or two since, is to be found a singular sentiment, of sufficient importance, in my opinion, to merit your especial attention. It is conveyed in the following sentence:

"In our two greatest risks and largest fields of danger our securities are of a very opposite character. We depend upon peace in Europe and upon war in America, for it is but too probable that a reconciliation between the southern and northern states, upon any terms, will be immediately followed by the most preposterous demands on this country."

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,
Secretary of State.

Mr. Adams to Mr. Seward.

No. 565.]

LEGATION OF THE UNITED STATES,
London, January 1, 1864.

SIR: I have the honor to transmit copies of a note addressed by me to Lord Russell, on the 28th of December, in relation to certain movements contemplated by the rebels in this country, and of his reply.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

LEGATION OF THE UNITED STATES,
London, December 28, 1863.

MY LORD: From such information as is believed by me to be entitled to credit, although it is not at present in my power to submit the evidence directly to your lordship, I feel it my duty to apprise you of the fact that a number of persons, not less than thirty, have lately arrived from the United States, with the intention to embark in the steamer Pampero, now at Glasgow, on a hostile expedition against the United States. Of these persons, some eleven or twelve, including one Dr. Vallandigham, from the State of Delaware, are now in Liverpool, and the others are either in London or Glasgow. Captain Sinclair, who has been here for more than a year, is designated to take the command. He has left Glasgow from fear of inquiry, and is now living elsewhere under an assumed name. A person by the name of Colin McKensy, of Baltimore, but now residing in London, furnishes the payments to the men, and is mentioned as the paymaster for the vessel.

I am further informed that these are a most daring and reckless set of men, who at one moment contemplated the project of seizing the Pampero and running her out of the port of Glasgow, either by force or fraud. This scheme is, however, for the present abandoned, especially as hopes have been inspired by Lieutenant Maury, who has lately visited those remaining at Liverpool, that the object will be accomplished in a simpler way.

The desperate nature of the class of persons to which these men belong in the United States is so well known to me, that I shall not be surprised to find them at any moment attempting some scheme to seize a vessel that promises

success, even though it be in defiance of the law as well as of the power of this kingdom. For these reasons I have taken the liberty to submit the private information I have obtained, even though it does not appear to be authenticated in the usual manner.

I pray your lordship to accept the assurances of the highest consideration, with which I have the honor to be, my lord, your most obedient servant,

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c., &c.,

FOREIGN OFFICE, *December 29, 1863.*

SIR: I have the honor to acknowledge the receipt of your letter of yesterday's date respecting a number of persons, said to be of desperate character, who are reported to have lately arrived in this country, and I have to inform you, in reply, that I have caused the information contained in your letter to be communicated to the proper department of Her Majesty's government, with a view to such measures being taken as the law allows to defeat any such attempts as are therein alluded to.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 566.]

LEGATION OF THE UNITED STATES,

London, January 1, 1864.

In obedience to the directions contained in your despatch (No. 782) of the 7th of December, I addressed a note to Lord Russell, on the 29th ultimo, in relation to the conduct of Ralph Cator. Copies of that note and of his lordship's acknowledgment are herewith transmitted.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES.

London, December 29, 1863.

MY LORD: I am directed by my government to represent to you that information entitled to credit has been received by it to the effect that an officer in her Majesty's naval service, either relieved or active, by the name of Ralph Cator, is engaged in violating the blockade of the insurgent ports of the United States, under the assumed name of Peterson. I am further instructed to express the belief that other British naval officers are thus engaged.

In view of this information, corroborated by the late proceedings at Sheerness, I am reluctantly compelled to believe that there is a strong disposition on the part of a portion of her Majesty's navy to violate the neutrality of their sovereign in aiding and assisting the enemies of the United States in the resistance they are making to the lawful government. I am requested to solicit your

lordship's attention to the expediency of making inquiry in regard to the alleged proceedings of the person above named, not doubting that should he prove to be guilty, her Majesty's government will visit the offence he has committed with its displeasure.

I beg to renew the assurances of the highest consideration with which I have the honor to be, my lord, your most obedient servant,

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c., &c.,

Earl Russell to Mr. Adams.

FOREIGN OFFICE, *December 30, 1863.*

SIR : I have the honor to acknowledge the receipt of your letter of the 29th instant, relative to a British naval officer of the name of Ralph Cator, who is stated to be engaged, with others, in violating the blockade of the southern ports of North America, and I have to acquaint you, in reply, that I have caused your letter to be communicated to the proper department of her Majesty's government.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

[Extracts.]

No. 796.]

DEPARTMENT OF STATE,

Washington, January 4, 1864.

SIR : Some irregularity of the mails, my short absence from the capital, and the suspension of business on the New Year festival, have worked a temporary obstruction in the business of this department. You will, if needful, give this explanation for any seeming inattention to questions which have been raised here on the part of the British government since the date of my last customary communications. I have the pleasure to acknowledge the receipt of your despatch of the 17th of December, (No. 557.)

Your survey of the domestic politics of Great Britain is truly analytical while it appears to me to be equally accurate.

* * * * *

I have from the first been satisfied that all sympathies for the American insurgents which should be awakened in Great Britain would prove to be elements of ultimate domestic contention there, enduring and actively operating long after the normal state of things should be restored in the United States. We have not failed at any time to give evidence that we desired no such consequence of our civil war in Great Britain. It was not this government that appealed to European tribunals : it was dragged into that presence by the statesmen of Europe. The sooner it is dismissed the better for Europe as well as for America.

No important military advance has recently been made by our armies, and probably none is to be expected during the residue of the winter season. In fact, they are being recruited and reorganized. Happily these processes seem entirely easy and successful. The popular expectation of a restoration of the federal authority increases, while, as you may have noticed, despondency and

distrust begin to reveal themselves among the insurgents. Not sufficient time has elapsed since the President's proclamation of amnesty was promulgated to enable us to declare with confidence upon the question of its general acceptance. It is manifest, however, that either owing to the intrinsic merits of the system he has proposed, or the improved condition of public sentiment, this last proceeding is received with greater favor and regarded with more of hopefulness than his proclamation of the first of January last met with in an equal period after its publication. And yet we now see that the measures announced by that proclamation have proved practically a great and important success. Our case is perhaps truly stated as follows: faction has exhausted its real strength, while the power of the Union is not sensibly impaired. Weariness of the conflict is demoralizing the insurgents, while the friends of the Union having given up their impatience are continually strengthening its power. In this condition of things either the President's suggestions will be adopted, or they will probably open the way to a satisfactory resolution of the national embarrassments.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 797.]

DEPARTMENT OF STATE,

Washington, January 4, 1864.

SIR: Your despatch of the 17th of December (No. 559) has been received.

I have laid before the President the proceedings of the citizens of West Hartlepool, on the subject of the civil war in the United States, and am authorized to express to you his great satisfaction with the just sentiments and cordial sympathies therein manifested.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 798.]

DEPARTMENT OF STATE,

January 4, 1864.

SIR: With the instruction to you (No. 789) of the 20th ultimo, extracts from the report of Mr. Mallory, pretending to act as Secretary of the Navy for the insurgents, were transmitted, showing the proceedings in England and France for the purpose of constructing war vessels for the naval service of the insurgents. Herewith you will receive copy of the Morning Chronicle of this city, of the second part, which contains that report in full. You may make such use of the document as you may deem advisable, towards undeceiving the British government as to the schemes and acts of the insurgents, with a view to creating and equipping a naval force within British jurisdiction, intended to wage war on the shipping of the United States.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Same, *mutatis mutandis*, to Mr. Dayton, No. 453.

Report of the secretary of the rebel navy.

SIR: I have the honor to submit herewith my third annual report of the condition of this department. The operations of this branch of the confederate service have been chiefly confined to preparations for ridding our waters of the enemy's vessels now blockading our seaports. We have also been engaged in building, arming, and equipping iron-clads and other steamers for service in our rivers and inland sounds. On the Mississippi many of those vessels have done valuable service to our cause, while others, not yet completed, were either captured by the enemy or burned by our officers to prevent them from falling into the hands of the United States forces. On the 1st of January some of our naval officers manned a steamer and two schooners, in which they sailed forth from the harbor of Galveston, and captured the United States gunboat Harriet Lane, safely withdrawing her out of the reach of the other United States vessels then blockading that port.

The Harriet Lane has since been put into complete order, and has on board a sufficient number of officers and men ready for an opportunity to distinguish themselves. Owing to the vigilance of the enemy, I have not deemed it advisable to give orders for this vessel to attempt any offensive operations. In accordance with my instructions, the confederate steamer Florida successfully ran the blockade from Mobile on the 13th of January, since which time she has been engaged in operations against the commerce of the enemy, capturing and destroying vessels and property amounting already to several millions of dollars. On the 17th of the same month the Alabama destroyed the United States gunboat Hatteras, in the Gulf of Mexico, for which daring exploit her commander deserves the thanks of Congress. On the 31st of the same month three of our iron-clad steamers, officered and manned by some of the bravest men of our navy, succeeded in inflicting serious injury upon the blockading fleet off Charleston harbor. Two of the enemy's vessels were disabled, and although one of them surrendered we were unable to secure the fruits of this victory, owing to the injury sustained by our own vessels by the collision that occurred.

Had the commander of this expedition been careful to strike the enemy amidships, his vessel would have remained uninjured, and our victory would have been complete. I had ordered a crew to be detached for service on the steamer Nashville, designing to use her for the purpose of harassing the enemy while erecting batteries at the mouth of the Ogeechee river; but unfortunately she was destroyed by the enemy before my plans were carried out. On the 16th of April the ram Queen of the West, which we had captured from the enemy, was recaptured, and her officers and crew, numbering one hundred and twenty persons, made prisoners. This occurrence was the result of carelessness on the part of the commander, who has since been cashiered and dismissed from the service. During the months of May and June our gunboats on the western waters actively co-operated with our land forces, and, although operating under many disadvantages, many gallant exploits were performed by their officers and crews.

Owing to the evacuation of Vicksburg and the surrender of Port Hudson, I deemed it advisable to give orders to withdraw all our vessels in that region to safe and secure harbors, and cease the construction of those contracted for, the machinery for which was being transported to the several depots. Some of this machinery is now stored at various points, and as it seems unlikely to be required for service at the west, and is unsuitable for use elsewhere, I suggest that it be sold, and the proceeds be applied to other purposes. On the seas some of our small privateers have inflicted considerable injury upon the enemy's commerce. The Tacony entered the harbor of Portland and captured the

United States revenue cutter Caleb Cushing. Owing to ignorance of the harbor, our officers were unable to take the Cushing out to sea, and she was again recaptured on the 27th of June by vessels sent in pursuit. Her crew were made prisoners. During the months of July and August I sent twenty-seven commissioned officers and forty trustworthy petty officers to the British provinces, with orders to organize an expedition and to co-operate with army officers in an attempt to release the confederate prisoners confined on Johnson's island, in Lake Erie.

From time to time I learned that the arrangements made were such as to insure the most complete success. A large amount of money had been expended, and just as our gallant naval officers were about to set sail on this expedition, the English authorities gave information to the enemy, and thus prevented the execution of one of the best-planned enterprises of the present war. In accordance with the order of the president, early in the present year I despatched several agents to England and France, with orders to contract for eight iron-clad vessels, suitable for ocean service, and calculated to resist the ordinary armament of the wooden vessels of the enemy. These ships were to be provided with rams, and designed expressly to break the blockade of such of the ports as were not blockaded by the iron-clad monitors of the enemy. Five of these vessels were contracted for in England and three in France. Due precautions were taken against contravening laws of England in the construction and equipment of these vessels. Three have been completed, but owing to the unfriendly construction of her neutrality laws, the government of England stationed several war vessels at the mouth of the Mersey, and prevented their departure from England. Subsequently they were seized by the British government.

Another and larger vessel has since been completed; but it is doubtful if she will be allowed to leave the shores of England, although it is believed the precautions taken will exempt her from the fate of her consorts. The vessels being constructed in France have been subjected to so many official visitations that I have forwarded instructions to cease operations upon them until the result of negotiations now pending shall permit our agent to resume work upon them. In this connexion, it is proper for me to state that *the great revulsion in popular sentiment, both in England and France, towards the confederate government*, has rendered our efforts to obtain supplies from those countries almost abortive. In view of all possible contingencies, I have instructed the agents of this department to wait a more favorable opportunity for carrying out the instructions previously forwarded. By the last I sent instructions that will shortly be made apparent to our enemies near home. I do not deem it advisable to communicate any portion of these plans to your honorable body at the present time, for reasons perfectly satisfactory to the president. Although the operations of our navy have not been extensive, I cannot overlook the services of Captain Semmes in the Alabama.

During the year he has captured upwards of ninety vessels, seventy of which were destroyed, the others being either bonded or released. One of the greatest drawbacks this officer reports having experienced is the difficulty he now has to procure full supplies of coal. The provincial English authorities have hitherto afforded him every facility, but recently they have interpreted their neutrality laws so stringently that our war vessels and privateers are much embarrassed in obtaining suitable supplies. I have instructed Captain Semmes to purchase coal from neutral shipmasters wherever he found it, and give them every necessary document to protect them against the effect such sale may have upon their vessels when they return to their several countries. By this means I anticipate a sufficient supply of coal will be obtained to enable him to continue his operations during the coming year. The other operations of this department have been chiefly confined to making such preparations for naval

operations as circumstances might permit. From time to time I have caused surveys to be made upon steamers running the blockade, with a view of purchasing such as could be made available as war vessels. Several have been bought and are now being transformed into ships-of-war.

For the armament of these vessels it will be necessary that Congress should make an additional appropriation. Appropriations will also be required to conduct our naval operations during the coming year. The estimated expenditures of the department for the fiscal year ending July 1, 1864, will amount to \$27,249,890, in addition to \$14,024,016 remaining to the credit of this department in the treasury. Since my last annual report the expenditures for the navy have been \$24,413,645. The business transacted during the year in this department has kept my very large clerical force so constantly engaged that from time to time I have ordered a number of naval officers to assist them in duties not properly devolving upon them. This course occasions so much dissatisfaction that I trust Congress will make such addition to my official staff as shall enable me to permit all our naval officers to resume their respective positions. The great disproportion of officers in our service to the seamen enrolled is a matter requiring the legislation of Congress. The number of commanders now in active service, either at sea or on shore, remains the same as previously reported.

Many of those occupying a lower grade in the service have volunteered in the army, owing to their desire to be actively employed against the enemy. I have not accepted the resignations of these gentlemen, but furnished them with temporary absences until I can recall them for the performance of other duties. I have considered it important to keep the roll as complete as possible; therefore, whenever I have been notified of the death of any naval officer, serving in the army, I have appointed his successor. The total number of commissioned officers at present attached to the confederate navy is three hundred and eighty-three. The petty officers number one hundred and ninety-one, while the roll of sailors gives a return of eight hundred and seventy-seven, not including those on board of vessels now at sea, accurate rolls not having been transmitted.

In conclusion, I must add my testimony to the gallantry and efficiency of our navy, who have nobly sustained our cause under many trying circumstances. The proud spirit of our officers chafes at the inaction they are compelled to endure; and I trust Congress will make provision for increasing the efficiency of this department, and permitting it to undertake more offensive operations against the enemy. In conclusion, I would recommend the passage of an act authorizing the construction of at least six turreted iron-clads for harbor operations. The experience of the past year has demonstrated that such vessels are absolutely necessary if we expect to break through and destroy the blockade at present established by the enemy. Attached to this communication I have the honor to submit the various reports of different commanders and officers sent upon detached duty, together with the reports of naval agents and other officers, at home and abroad, who have been engaged on duty connected with this department.

All of which is respectfully submitted.

S. R. MALLORY,
Secretary of the Navy.

Hon. T. S. BOCOCK,
Speaker of the House of Representatives, C. S. A.

NOTE.—This document, as will be seen by No. 640, was afterwards ascertained to be a forgery.

Mr. Seward to Mr. Adams.

No. 801.]

DEPARTMENT OF STATE,
Washington, January 5, 1864.

SIR: I acknowledge the receipt of your despatch of the 11th of December, No. 553, and in this connexion I take leave to refer to your previous despatch, No. 548, and to my reply thereto, No. 791. All of these papers relate to Earl Russell's complaint that the commandant of the United States steamer Kearsarge, Captain Winslow, had enlisted seamen in the port of Queenstown, and that Mr. Eastman, the United States consul for Cork, resident at Queenstown, was an accomplice in that affair. Your despatch first above mentioned gives the consul's positive denial of the charge, so far as it concerns himself, and his denial upon information and belief of the charge against Captain Winslow. The same despatch is accompanied by a copy of papers, which were placed in your hands by Captain Winslow, in which the charge, as it affects himself, is denied, and proofs are given sustaining that denial.

The same despatch informs me that you have already submitted the consul's denial to Earl Russell, but that you had not at that time laid before him the papers furnished to you by Captain Winslow.

It will be borne in mind that in my despatch No. 791 I authorized you to investigate the charges, and to report thereupon to this department, at the same time empowering you to dismiss the consul peremptorily, if you should find him guilty of the offence alleged against him. In the same paper I authorized you to inform his lordship that I should request the Secretary of the Navy to institute an inquiry into the facts, without waiting for the result of your investigation. I further empower you to ask from Earl Russell any proofs he might be able to furnish in support of the charge.

Having thus described the condition of the case, I have now to say: First in regard to the consul, that if no facts controverting his denial shall have come to your knowledge, it seems to me that his innocence is established, and that I hope that it may appear in the same favorable light to her Majesty's government.

Second, in regard to Captain Winslow, that unless you have discovered or been put in possession of facts controverting his denial and proofs, that you will say to his lordship that it seems to this government that Captain Winslow has not intentionally or knowingly violated the anti-enlistment laws of Great Britain, although there is reason to believe that, without his knowledge, some irregularity in that respect was practiced by some of the petty officers and seamen on board his vessel, which was corrected as far as possible when it was discovered by him. It is not proposed, however, to decide definitely this point, without awaiting a report of your investigation, as well as the result of the inquiry which has been ordered by the Secretary of the Navy.

Finally, you will assure Earl Russell that this government, in the further prosecution of the case, will not fail to vindicate its respect for the laws of Great Britain, and for the laws of nations.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 802.]

DEPARTMENT OF STATE,
Washington, January 6, 1864.

SIR: Your despatch of the 11th of December (No. 554) has been received, and your proceedings therein related concerning the pirate Rappahannock are approved.

I acknowledge also the receipt of your despatch of the 11th of December, No. 555, which is accompanied by a copy of the correspondence which has taken place between yourself and Earl Russell on the subject of the enlistment of pirates and equipment of ships-of-war by British subjects, and their naval operations on the high seas, against the unarmed merchantmen of the United States. The papers you have thus submitted to his lordship prove beyond a possible doubt that a systematic naval war has been carried on for more than a year by subjects of her Majesty from the British island as a base, and there is every reason for believing that unremitting efforts are made to give that warfare increased vigor and extension. It now appears from these papers that the belligerents have a regularly constituted treasury and counting-houses, with agents in London for paying the wages of the British subjects who are enlisted there in this nefarious service. Hitherto remonstrances made by the United States to her Majesty's government have been held inconclusive and unsatisfactory, because it was said that they were not attended with such clear, direct, and conclusive proofs of the offences complained of, as would enable the government to arrest the offenders, and apply judicial correction to the practices indicated. It seems to the President that this difficulty has now been fully and completely removed. Having recently brought to the knowledge of her Majesty's government flagrant violations of our national rights of a similar kind attempted in her Majesty's North American provinces, and having still more recently given to Earl Russell, through your hands, the avowal of all these transactions by domestic conspirators against the United States, it only remains for me to inform you that the President awaits with deep concern a determination by her Majesty's government of the grave question which you have been instructed to submit to them, namely, whether that government will adopt any new measures to put an end to practices which are not less intolerable to the United States than they are inconsistent with the neutrality which her Majesty has proclaimed and enjoined upon all of her subjects. In writing so earnestly upon this subject, I do not by any means forget that recently her Majesty's government have taken measures to detain certain vessels which were being built for the purpose of carrying on war with the United States, nor do I overlook the fact that her Majesty's government have promised due attention to a special complaint which is referred to in this communication. The President does not, in the least, doubt that her Majesty's government are earnestly and seriously engaged in considering several of such complaints, distinctly and separately. Nevertheless, I trust that I shall not be thought unreasonably importunate in asking you again to press the general subject upon the attention of her Majesty's government, in the light of the facts now first brought to the knowledge of this department. Alarming events are occurring on our borders, prosecutions are pending in Great Britain. We have been obliged to institute a special naval and military police in the port of New York, which must soon prove as annoying to lawful traders from friendly states as to our own citizens, and thus new irritations are arising, and new controversies are gathering up between the two countries.

On our part we trace all the evils to an unnecessary, and, as we think, an anomalous recognition by her Majesty's government of insurgents as a naval power who have no pretensions to that title. We desire to know whether, after all its gross abuses and injurious consequences, that concession must remain unrevoked and unmodified. If it must remain, then we desire to know whether her Majesty's government can apply a cure to these abuses and consequences, or whether we are expected to devise and provide the proper remedies. If the British government is to do nothing, and the United States everything, I know not what security commerce can ever have hereafter against universal practices

of privateering and piracy, except that even the lawful trade between friendly countries must be carried on under the protection of ever present and adequate armed force.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 803.]

DEPARTMENT OF STATE,

Washington, January 6, 1864.

SIR: I acknowledge the receipt of your despatch of December 11, No. 556, together with its accompaniment, namely, your note addressed to Earl Russell, with proofs in the case of the Canton *alias* the Pampero, a piratical steamer, which is being built at Glasgow. Later advices by telegram state that her Majesty's government has forbidden the departure of that hostile craft. It is to be hoped that this information is correct.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 804.,

DEPARTMENT OF STATE,

Washington, January 6, 1864.

SIR: Since the instruction to you of yesterday, No. 801, on the subject of the alleged enlistments for the Kearsarge at Queenstown was prepared, the letter of that date, a copy of which is enclosed, has been received from the Secretary of the Navy. The only two of the accompanying papers, transcripts of which were not already in your possession, are also herewith transmitted. It is presumed that you may now be enabled to present the case to the British government in a shape that may satisfy it that the men found on board the Kearsarge were not enlisted at Queenstown; that they secreted themselves in the vessel without the knowledge of Captain Winslow; and that they were returned to the place whence they came within a reasonable time after their presence was discovered.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES F. ADAMS, Esq. &c., &c., &c.

NAVY DEPARTMENT,

Washington, January 5, 1864.

SIR: On the 29th ultimo I had the honor to acknowledge the receipt of your letter of the 23d ultimo, enclosing a despatch from Mr. Adams in reference to an alleged violation of the foreign enlistment act of Great Britain by the commander of the United States steamer Kearsarge, and to state that Captain Winslow had been called upon for a report on the subject, as nothing relative to it had been received from him. Since then a report from him, dated Decem-

ber 11, has reached the department, and I have the honor to transmit it and its enclosures, herewith, for your perusal, and for such use as you may think proper to make of their contents.

The return of the report, and the papers accompanying it, is requested.

Very respectfully,

GIDEON WELLES,
Secretary of the Navy.

Hon. WILLIAM H. SEWARD,
Secretary of State.

P. S.—Any further report that may be received from Captain Winslow shall be communicated to you.

No. 17.]

UNITED STATES STEAMER KEARSARGE,
Brest, France, December 11, 1863.

SIR: I have the honor to inform you that, during the last cruise of the Kearsarge from this port, I took the opportunity of landing at Queenstown sixteen refugees who secreted themselves on board of this vessel prior to her departure from that port on the 5th ultimo.

The accompanying papers afford all information of the character of that act, with the correspondence which followed.

I have the honor to be, very respectfully, your obedient servant,
JNO. A. WINSLOW, *Captain.*

Hon. GIDEON WELLES,
Secretary of the Navy, Washington, D. C.

UNITED STATES STEAMER KEARSARGE,
Off Queenstown, December 7, 1863.

SIR: A party of men, either by connivance of the crew or otherwise, were concealed on board this vessel on the night of her departure from Queenstown, the 5th ultimo.

These men, I learn, were in expectation of being enlisted in the service of the United States after the Kearsarge had proceeded to sea, but found their mistake. To have turned them ashore at Brest would have been to open to them the temptation to enlist on board the Florida. I therefore determined to leave them at Queenstown as soon as it was practicable.

You will please notify Admiral Jones that I informed him that no enlistments would be made at Queenstown. I have, therefore, sent on shore this party, that no charge of subterfuge may be alleged in the premises.

Very respectfully, your obedient servant,
JNO. A. WINSLOW, *Captain.*

E. G. EASTMAN, Esq.,
U. S. Consul, Queenstown.

I certify that the United States steam-sloop Kearsarge arrived in Queenstown on the night of the 2d of November, 1863, and that on the following day I left the ship for Cork. On my return to Queenstown, accompanied by the American consul, I called upon the admiral in command, and in course of conversation reference was made to a paragraph in the papers that the Kearsarge had come for the purpose of enlisting men, when I informed the admiral that I

had received notice from the executive officer of the Kearsarge that many persons had applied to be shipped, and in response I had directed him to notify all persons that no enlistments would be made, and instructions were given in accordance.

On the night of the 5th of November, while blowing heavy, and thick weather, we went to sea. On the following day report was made to me that several men had been discovered on board; investigation shows that they had concealed themselves in the ship during the thick and rainy weather of the day and night previous, and disguised in this way had come out in the ship in hopes of enlistment in the service of the United States after the ship got to sea. The Kearsarge was on important duty, watching the Florida at Brest, and it was therefore impracticable to return the men to Queenstown immediately. I directed the men to be held at Brest, in apprehension if they were turned ashore they would join the Florida, resolving as soon as the Kearsarge left Brest again to put them ashore at Cork. The Kearsarge left Brest again on the 5th of December, and, in accordance with my resolution, I have this day, the 7th of December, sent sixteen men ashore in the pilot-boat Petrel, with a list of their names as given to the American consul.

JNO. A. WINSLOW, *Captain*.

UNITED STATES STEAMER KEARSARGE,
Off Queenstown, December 7, 1863.

SIR: I have the honor to inform you that I came to, off Queenstown, for the purpose of landing sixteen refugees who had concealed themselves on board this ship prior to her departure from Queenstown, on the 5th of November. I learn here that an attempt has been made to magnify this circumstance for purposes unfriendly to the United States. I have, therefore, given to the American consul my certificate, with a representation of the circumstances by the executive officer of this ship, and I have directed the consul to hand you a copy of the same.

Very respectfully, your obedient servant,

JNO. A. WINSLOW, *Captain*.

Rear-Admiral Sir LEWIS T. JONES,
Com'dg H. M. Naval Forces, Coast of Ireland.

UNITED STATES STEAMER KEARSARGE,
Off Queenstown, December 7, 1863.

SIR: I beg leave to state, in accordance with your request, that on or about the 3d of November, 1863, several men from Queenstown came on board of this ship as applicants for enlistment in the naval service. In the absence of yourself and of any definite instructions in regard to such applications, I told the men that if they were physically qualified for enlistment they might remain on board until your return, when you would decide. Upon your return, your instructions were not to enlist them. These men were accordingly sent out of the ship. Many applications of a similar nature were made, but their enlistment was, in every case, refused, in accordance with your instructions. During the time we were at anchor the ship was surrounded by boats filled with men desiring to enlist. Orders were given and executed not to allow them alongside. On the evening of the 5th this was the case until after dark and until the ship was under way.

The ship went to sea on the 5th November. It was stormy and blowing hard. In accordance with the usual custom of the ship, and with the necessi-

ties of the case, (as I thought,) before tripping the anchor, all strangers were ordered out of the ship. The master-at-arms, with the ship's corporal and others of the police force, executed the order, finding men stowed away in the hold, in the carpenter's locker, and elsewhere. These men were put out of the ship, in some cases by force. As soon as the ship was reported cleared, the anchor was tripped and the ship went to sea.

On the next day several men were discovered who were strangers in the ship. These men, probably with the connivance of some of the crew, had been so secretly concealed as to elude the vigilance of the police force. Upon receiving this information you decided to land these men at Brest, whither you were bound.

These men were sent out of the ship at Brest in accordance with this determination, but pleading destitution, they returned and were permitted to remain on board until this morning, when they were returned at Queenstown by the pilot-boat Petrel.

I would add that the names of these men, upon their return to the ship while in Brest, were placed upon the ship's books for the purpose of their support and comfort, they being otherwise entirely destitute.

Very respectfully, your obedient servant,

JAMES S. THORNTON,

Lieutenant Commander and Executive Officer.

Captain JNO. A. WINSLOW, *Commanding.*

UNITED STATES STEAMER KEARSARGE,

Brest, France, December 11, 1863.

SIR : Your letter, with enclosed memorandum, is at hand. I have just returned from a cruise of reconnoissance up the channel, and while off Cork landed sixteen men, who had secreted themselves on board the Kearsarge some time prior to her departure from Queenstown, the 3d ultimo.

I learned from the consul at Queenstown of the seizure of this act by secession agents to make capital of, and left with him originals of the enclosed letters, which will afford you all information in the premises.

I would beg leave to say, that so far as my action is concerned in this case, I was so particular as even to send ashore an American seaman (Boston born,) lest it might be said that I had not dealt faithfully.

I should be pleased to receive your views in consideration of this subject, with any information relating.

It is to be regretted that the daily papers could not publish the facts, and disclose the plot of secession agents to prejudice the public mind.

I have the honor to be, very respectfully, your obedient servant.

JOHN A. WINSLOW, *Captain.*

Hon. CHARLES FRANCIS ADAMS,

Env. Ext. and Min. Plen. of the U. S., London,

or John Bigelow, Esq., United States Consul, Paris.

Mr. Seward to Mr. Adams.

No. 805.]

DEPARTMENT OF STATE,

Washington, January 7, 1864.

SIR : Telegraphic information has been received here from the United States consul at Halifax that the authorities there have decided to require proceedings

in admiralty on behalf of the owner of the steamer Chesapeake, in order that they may obtain restitution of the vessel. This decision has occasioned surprise and disappointment here. It was hoped that, as the Chesapeake was wrested from the owner by a flagrant act of piracy, she would have been restored to them by the colonial executive, without requiring the illegality of the seizure to be judicially proved. You will consequently protest against the decision adverted to.

I am sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 567.]

LEGATION OF THE UNITED STATES,

London, January 8, 1864.

SIR: I have to acknowledge the reception of your despatches from the department, numbered 786 to 790, inclusive, together with several printed copies of the list of diplomatic consular officers, on the 1st December, 1863. I shall seize an early moment to pursue the subjects indicated in these despatches with Lord Russell. It is much to be regretted that I cannot find a complete copy of the report of Mr. Mallory, referred to in No. 789, in any of the newspapers. I think, however, there is no doubt of a growing conviction here of the necessity of some decisive action to check the outrageous plots of the rebels and their British sympathizers. I am informed that prosecutions are in contemplation against several of the commercial houses that have been most prominently engaged in promoting their objects. In my opinion, it would be far better for the British government to initiate these than for the United States; but I shall be very glad to confer with Mr. Evarts on that subject so soon as he may arrive here. I look upon the complaints made against Mr. Eastman and Commander Winslow, and the proceedings threatened against the poor men found in and surrendered from the Kearsarge, as simply intended to guard against the appearance of partiality or one-sidedness, of which charge there is always more or less apprehension as it regards the United States. The strong evidence which it has been in our power to obtain in connexion with the outfit of the Victor at Sheerness has as yet had only the effect of discharging from the service a few poor mechanics, who were probably guilty of no evil intent whatever, whilst the real authors of the mischief remain untouched. Before this you will have received information of the later representations made by me, which have in a measure anticipated your directions; I shall, however, follow them up in the manner indicated upon every suitable occasion, until I perceive that some preventive policy has been actually adopted.

The struggle is degenerating into a mere effort on the weaker side to do mischief without regard to the means resorted to; considering the manner in which it commenced this is not surprising. The only thing I fear is, that much wrong may be done to non-combatants and innocent parties, who suffer from a reluctance to presume such motives of action to be possible. It certainly cannot be imagined that stealing vessels and plundering private individuals of the profits of a legitimate commerce will have the smallest influence in putting a stop to the war. Shortsighted and vain as have proved thus far all the calculations of the rebel conspirators, they are scarcely yet reduced so low as to expect from a policy of fraud and robbery what they have failed to obtain by making professions of a more exalted purpose.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WM. H. SEWARD, &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 570.]

LEGATION OF THE UNITED STATES,

London, January 8, 1864.

SIR: I have now to report the reception of another note from Lord Russell in relation to the case of Ralph Cator, already acted upon, as mentioned by me in my despatch (No. 566) of last week.

A copy of his lordship's note is transmitted.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WM. H. SEWARD, &c., &c., &c.

Lord Russell to Mr. Adams.

FOREIGN OFFICE, *January 6, 1864.*

SIR: With reference to my letter of the 30th ultimo, I have the honor to inform you that I have received from the board of admiralty a letter stating that in all cases in which they have received applications from officers on half pay for leave to proceed to the West Indies, the board have refused such leave whenever there has been any suspicion that the officer intended to sail in any ship engaged in running the blockade of the southern ports.

The admiralty further state, that on the 25th of May last leave to go to Jamaica, on family affairs, for six months, was granted to Commander Ralph E. Cator, and that within the time specified he reported his return to this country. Commander Cator, whilst on leave, was on the half-pay list of his rank. The board add, that if it should be made clear to them that Commander Cator has been employed, as alleged by you, the indulgence of leave will be in future refused to him.

As regards your statement that you believe that other British naval officers are engaged in violating the blockade, the lords of the admiralty observe that they have not received any information which leads them to believe that any other officers of her Majesty's navy, either on the active or reserved lists, are so engaged.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

C. F. ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 806.]

DEPARTMENT OF STATE,

Washington, January 11, 1864.

SIR: I transmit copies of certain letters which were found on board the prize steamers R. E. Lee and Cornubia, and which conclusively show that the British vessels now engaged in attempted violations of the blockade are not neutral vessels, but are really rebel transports, fraudulently despatched and sailing under the British flag. You will have the goodness to place copies of these papers in the hands of Earl Russell. The originals are on file in the office of the clerk of the United States district court of Massachusetts.

You will submit to Earl Russell the inquiry, whether the developments thus brought to his knowledge do not require some modification of the policy hitherto maintained by her Majesty's government in regard to the political controversy which this government is so diligently engaged in endeavoring to bring to an end, favorable to the interests of both countries and to the cause of humanity. At least her Majesty's government cannot be surprised that, with the knowledge now possessed by this government, the policy hitherto pursued by the United States in regard to assaults of the blockade will be modified.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

C. F. ADAMS, Esq., &c., &c., &c.

Mr. Dana to Mr. Seward.

OFFICE OF UNITED STATES ATTORNEY,
District of Massachusetts, Boston, December 28, 1863.

SIR: I have the honor to enclose herewith copies of letters found on board the prize steamers R. E. Lee and Cornubia, which I thought might be useful to you as proofs in cases of alleged building and equipping of vessels for the rebel government in England.

The originals are on file in court, and, if needed, can be sent to our minister in England.

Letters found on board show that the R. E. Lee, Cornubia, and Ella and Anna, and others of their class, are the property of the confederate government, commanded by commissioned officers; and I enclose a copy of a letter, showing that they are instructed to conceal their true character in neutral ports, in order to avoid the rules applied to public vessels of belligerents.

Very respectfully, your obedient servant,

RICHARD H. DANA, JR.,
United States Attorney.

HON. WM. H. SEWARD,
Secretary of State.

Messrs. Alexander Collie & Brother to Captain J. Wilkinson.

MANCHESTER, *November 14, 1862.*

DEAR SIR: In the event of the Giraffe being sent back to England with cotton or other produce, we will be very glad to take charge of her and to dispose of the cargo on account of the confederate government; and if a further supply of boats or other articles be required from this country, we place our services in the purchase and shipping of these goods at the disposal of the government. The experience we have gained of the wants of the army and navy, and the knowledge we have of the qualities of the various articles required for their use, fits us, we believe, to execute such orders in a manner which will be in every way satisfactory. Wishing you a pleasant and a successful voyage,

We are, dear sir, yours, very faithfully,

ALEXANDER COLLIE & BRO.

Captain J. WILKINSON,
Confederate States Navy.

The above is a copy of a letter found on board the prize steamer R. E. Lee, of which Wilkinson was commander at the time.

R. H. DANA, JR., *U. S. Attorney.*

Mr. I. Gorgas to Captain Commanding Cornubia.

[Cornubia.—Circular.]

CONFEDERATE STATES OF AMERICA,
War Department, Ordnance Office, Richmond, September 25, 1863.

SIR: For special reasons it is deemed advisable that our steamers engaged in running the blockade should not carry pennants or other insignia of vessels of war. You are requested, when in foreign ports, to carefully guard against all acts tending in any manner to cause issuance of orders by the authorities curtailing the facilities and privileges our vessels now enjoy. Your conduct should be such as to leave the impression that your steamer does not belong to the government, but is simply used by it as a carrier.

Your obedient servant,

I. GORGAS,
Colonel and Chief of Ordnance.

To CAPTAIN *Commanding Cornubia.*

Original found on board the prize steamer Cornubia.

R. H. DANA, JR., *U. S. Attorney.*

Mr. James Ash to Edgar Stringer, Esq.

CUBITT TOWN, LONDON, *October 2, 1863.*

DEAR SIR: In answer to your inquiry, whether the contract I now send you in will be in force for three months from the 25th October, 1863, I beg leave to say it will, and that I am prepared to build three steamers of same dimensions at the same price, to be delivered you ready for furnishing for sea at the expiration of four months from the date of my receiving deposit instalment from you.

In handing you the model for the construction of the navy in Richmond, I shall, of course, be fully prepared to adopt any suggestions he may make, and to alter the boat according.

The price which you paid me for the steamers now building, particularly the Nutfield, is dearer, considering that she is of less horse-power, than the offer I am now making you, as well as being larger; and you must also take into consideration that I am binding myself for three months hence, which I would not do except for the desire I have of doing more business for you.

I am, dear sir, yours faithfully,

JAMES ASH, *Iron Shipbuilder.*

EDGAR STRINGER, Esq.

Original found on board the prize steamer Cornubia.

R. H. DANA, JR., *U. S. Attorney.*

Mr. John S. Seward to Messrs. Stringer, Pembroke & Co.

BLACKWELL IRON WORKS,
London, October 3, 1863.

GENTLEMEN: I will undertake to supply you with marine screw engines for line-of-battle ships or rams, from 200 horse-power to 400 horse-power, for the sum of forty-eight pounds ten shillings per hundred pounds, to be made of the

best material and workmanship; all the pipes to be copper; engine bearings moving in the best gun metal, or white metal if approved, to be furnished to the entire satisfaction of any person the mercantile marine company or yourselves may appoint; and I also agree to make the engines from plans and specifications to be sent home from the confederate government's engineer, and to be finished in six to eight months from date of order. I also agree to send out men, if required, to place the engines in the respective ships, at the confederate government's expense.

I am, gentlemen, yours truly,

JNO. S. SEWARD.

Messrs. STRINGER, PEMBROKE & Co., *Austin Friars.*

Original found on board the prize steamer Cornubia.

R. H. DANA, JR., *Attorney.*

Mr. Seward to Mr. Adams.

No. 807.]

DEPARTMENT OF STATE,

Washington, January 11, 186

SIR: The investigation which has been made in the case of the Chesapeake has yielded indisputably these results, viz: that the crimes committed in her capture were contrived and prepared by the actors within the provinces of Nova Scotia and New Brunswick, by persons some of whom were British subjects, and all of whom had asylum there; that, in pursuance of the original plan, the vessel, with its freight, was found within British jurisdiction, having been taken by pirates into British waters, to save them from just and lawful pursuit by the authorities of the United States; that the merchandise, chiefly of flour, sugar, and iron, which constituted that freight, was openly and boldly sold at wasteful prices by the pirates to British subjects, resident in the aforesaid provinces, who had full knowledge that the same had been obtained by piracy, and who, by such purchase, became parties in that crime; that, although all the pirates took refuge within British jurisdiction, no process has been issued for their arrest or that of their accomplices, nor any pursuit of them instituted, except on the application of this government, and that when three of them were arrested within British jurisdiction and secured, by agents of the United States, their arrest by the British authorities was prevented and defeated by a mob of the citizens of Halifax. I have already, by the President's direction, instructed you to represent to her Majesty's government that the United States are aggrieved by the refusal of the authorities of Nova Scotia to surrender the steamer Chesapeake to her owners. I have now to add to that instruction a further one, under which you will represent to Earl Russell the grievances especially set forth in this despatch. The President does not allow himself to doubt that her Majesty's government will disapprove of these illegal proceedings, and order restitution in the premises. He thinks that the occasion is a fitting one for directing the notice of that government to the painful fact that while it has proclaimed neutrality in regard to the civil war in the United States, the insurgents are continually receiving direct aid and co-operation from British subjects in several seaports of the realm, and hostilities are also carried on against the United States by British subjects, under the cover of that neutrality, from British provincial ports, throughout a line extending from the Bahamas through the Atlantic ports of British North America, and reaching to the Cape of Good Hope. I forbear from adding to what I have recently had occasion to say concerning the cause of these proceedings, their tendency, and the necessary remedy.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES F. ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 808.]

DEPARTMENT OF STATE,
Washington, January 12, 1864.

SIR: Your despatch of the 3d of December last (No. 547) has been received, together with the copy of the correspondence which, at that date, had taken place between yourself and Earl Russell on the subject of the Rappahannock. I have the pleasure of informing you that not only your proceedings mentioned in the despatch, but also the views and suggestions therein contained, in regard to a just treatment of the case of the Rappahannock, and kindred subjects, are approved by the President.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES F. ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

[Extract.]

No. 809.]

DEPARTMENT OF STATE,
Washington, January 12, 1864.

SIR: A pressure of business has prevented an earlier acknowledgment of your very interesting despatch of December 4, No. 549.

Contrary to European speculation, I am slow to believe that there will be a war in Europe in the spring. A formidable increase of the resistance to British authority in India might tend to produce an European war, but I do not think it likely to happen otherwise.

American people, justly earnest, and truly loyal, seem almost to demand in these times occasional utterances from their executive agents, at home and abroad, by way of evidence that they are not lacking either in loyalty or in earnestness. They do not always consider that self-respect, as well as deference to official proprieties, concur in requiring reserve and moderation on the part of executive agents, especially on the part of agents in foreign countries. Yet I am sure they would not be slow to criticise Lord Lyons or Baron Von Gerolt, if he should open to the ears of the American people the debate which is going on with so much earnestness between the political parties of his own country. The error, however, is an error on the side of patriotism and virtue. Your speech on Thanksgiving day was a tribute, not unseasonably paid, to the exactions I have described. I cannot express my satisfaction with it more strongly than I do when I say that, since you must speak, you could not have spoken more prudently, wisely, or loyally.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES F. ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 810.]

DEPARTMENT OF STATE,
Washington, January 12, 1864.

SIR: I have received, and have submitted to the President, your despatch of December 4, No. 550, which is accompanied by a copy of a note addressed to

you by Earl Russell, in reply to the representation you have made concerning a contract by insurgents with British subjects, in which Bermuda was designated as a place for the receipt of contraband merchandise, to be shipped to the insurgents.

While I admit that the evidence, to which reference is made, is attended by the uncertainty and want of directness which his lordship indicates, I cannot but think that it is sufficient to justify the United States in expecting her Majesty's government to institute precautionary measures against the execution of a purpose, in the island of Bermuda, so manifestly injurious to this country, and derogating from the impartial neutrality which Great Britain has proclaimed. It is hardly to be expected that the United States could procure direct and conclusive evidences of frauds and combinations plotted by its enemies living under the protection of British laws.

I shall continue to furnish you with such circumstantial proofs upon the point involved as fall into my hands. Of this class is the accompanying extract from the Morning Telegraph, a newspaper printed at St. John's, New Brunswick, on the 5th instant.

Of the same class is the fact that Lieutenant Rooke, of her Majesty's army, was detected carrying a contraband mail to Bermuda, to be delivered to insurgent agents there.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES F. ADAMS, Esq., &c., &c., &c.

Letter from Halifax.

[Special correspondence of the Morning Telegraph.]

HALIFAX, December 31.

The Bermuda packet, arrived to-day, brings absolutely nothing of interest from the Confederate States. There are two passengers through from Wilmington, 12th instant. I have one solitary paper of that date. The *Flora* is the only blockade steamer out since the last moon, a month ago. One schooner came through from Wilmington, successfully, and another schooner had got in. The *Don* and *Hansa* had been captured by the federals off Charleston, and the *Beauregard* and *Ceres* run ashore near Wilmington and destroyed. The *Ceres* is the only steamer of all blockade runners that has not paid for herself; it was her first trip. The *Beauregard* had a very valuable cargo. Steamers continue to arrive at Nassau and Bermuda, to take the places of those destroyed. The number is increased rather than diminished. This business is reduced to a mathematical nicety, and the chances of profit and loss are fully computed. No vessel is expected to have nine lives, although a half dozen or so are reckoned upon.

Mr. Seward to Mr. Adams.

No. 812.]

DEPARTMENT OF STATE,

Washington, January 13, 1864.

SIR: With instructions No. 806, of the 11th instant, copies of letters found on board blockade runners condemned at Boston were transmitted. Those letters showed that many if not most of the vessels engaged in that business are owned in whole or in part by the insurgent authorities, and, consequently, that as the British flag which they usually fly is prostituted, they, their cargoes, and

the persons on board of them, are liable to be treated as belligerents. * Enclosed is a slip from a recent number of the London Index, acknowledging that the insurgent government has for the past year been in part, at least, interested in the cargoes of those vessels, and advising that in future it should increase that interest. The significance of these facts and of this counsel, for the purpose of counter-weighting impressions of exclusive or even partial interests of neutrals in the blockade runners, will be useful to you.

I am, sir, your obedient servant,

WILLIAM H SEWARD.

CHARLES F. ADAMS, Esq., &c., &c., &c.

THE REBEL COTTON LOAN.

From the London Index, (rebel organ.)

During the year now closing, about 130,000 bales of cotton, of about 500 pounds weight each, have found their way through the blockade to European ports, which, at the ruling prices, sold for upwards of £6,000,000 sterling. With this fund to its credit, had the cotton been exported for its own account, instead of, for the most part, private speculators, the confederate government might have dispensed with foreign loans, might have bought its warlike stores at the lowest cash rates, and supplied its citizens with commodities of prime necessity at a moderate advance on cost. Not only would it have earned the fabulous profits pocketed by foreign merchants, but it would have saved itself the issue of that flood of promises to pay with which it purchased importations, and which the importers made haste to dispose of on any terms. And what creditor at home could have doubted the solvency of a debtor who was the largest holder of foreign exchange in the country?

Let it not be said that the government would have failed where private enterprise succeeded. The experiment has been sufficiently tried to demonstrate that the government, in blockade ventures, has been even more fortunate than individuals, probably for the reason that, thanks to the patriotic enthusiasm of the whole people, it is at present the best served government in the world. To its success in this respect is due the credit which, amid the most adverse circumstances, it still commands in the markets of Europe. The question, then, would simply have been to extend on a larger scale what has been done with considerable success on a small one. The mercantile marine of every country, not excepting that of the north, is open to it to select the staunchest and the swiftest vessels. It commands a staff of naval officers inferior to those of no country in skill, courage, and dash; and although the service may not be so brilliant and so much to their taste, at the country's bidding they would render it as zealously and as devotedly as though they trod the decks of Merrimacks and Alabamas. It will scarcely be contended that vessels avowedly the property of the confederate government would run greater risks on the high seas from the enemy's cruisers than those owned by British subjects run under the warm neutrality of the foreign office.

But if private enterprise must be called into aid, the cotton bonds now in the hands of European holders afford the desired machinery, provided all private exportation, except in redemption of these bonds, is prohibited. The £3,200,000 which the government now owes in Europe represents, at six pence per pound, 260,000 bales of cotton, which, at the rate of this year's exportation, could be run through the blockade in about two years. Every obligation thus redeemed would make room for a new one, which, as the only

* From the New York Times of January 12.

means of purchasing cotton, would be eagerly sought at prices remunerative to the government. We are told that sound political economy forbids the granting of monopolies; but blockade running is virtually already the monopoly of those firms which were the first and the most enterprising in the attempt. Why not, if a monopoly must exist, give it to those who have trusted the government? Besides, no one is injured thereby, for those who now hold this virtual monopoly may still retain it by merely changing their purchasing medium.

We have reasons to believe that in advocating this recommendation of Mr. McRae we express the convictions of nearly every important officer of the Confederate States in Europe, and of the great majority of the friends and well-wishers of the confederate cause. If anything approaching the same unanimity exists in the Congress now assembled at Richmond—and there appears no cause to doubt it—we may expect by any steamer, within the next four or five weeks, to hear of the passage of an act laying an embargo on the exportation of cotton, under conditions similar to those here indicated.

Mr. Seward to Mr. Adams.

No. 813.]

DEPARTMENT OF STATE,

Washington, January 14, 1864.

SIR: Your despatch of December 24 (No. 563) has been received, together with its voluminous and effective supplement of proofs of the abuse of the British and international laws in the case of the Rappahannock. The President does not permit himself to doubt that her Majesty's government will promptly apply in that case the remedies which are within its power. Unfortunately the special remedies in single cases must necessarily fail to remove an evil that has its source in a general policy that is radically erroneous and anomalous.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES F. ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 814.]

DEPARTMENT OF STATE,

Washington, January 14, 1864.

SIR: I enclose an extract from a despatch of the 17th ultimo (No. 96) from the United States consul at Malta, relative to reports that British naval officers, under assumed names, are engaged in violating the blockade of ports yet held by the insurgents. The same information reaches us from other quarters. Although it is possibly exaggerated, it would be well for you to suggest whether an inquiry could not be made into the matter.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES F. ADAMS, Esq., &c., &c., &c.

Mr. Winthrop to Mr. F. W. Seward.

[Extract.]

No. 96.]

UNITED STATES CONSULATE,

Malta, December 17, 1863.

1. SIR: I would beg to inform you of my having recently received reliable information that many English naval officers on half pay and under assumed names are now engaged in running the blockade.

2. May I beg to suggest that hereafter when any prizes are taken that every officer and passenger should be made to identify himself, even if he had to send to England to do it. When discovered to be English officers, if their names were reported to the British government, they would lose their commissions and prevent others from running a similar risk in future.

I have the honor to be, sir, your obedient servant,

W. WINTHROP.

F. W. SEWARD, Esq.,

Assistant Secretary, &c., &c., &c.

Mr. Adams to Mr. Seward.

[Extracts.]

No. 571.]

LEGATION OF THE UNITED STATES,

London, January 14, 1864.

SIR: Despatches from the department, numbered from 791 to 795, inclusive, have been received at this legation, likewise a bound copy of the report of the Agricultural Department for 1862.

With regard to the case of Mr. Eastman, referred to in your No. 791, of the 26th, and No. 794, of the 29th of December, I have concluded to postpone action upon the subject until I can learn whether Lord Russell has actually made any representation through Lord Lyons. I do not find in the depositions of the enlisted men, so far as they have been published, anything seriously to implicate Mr. Eastman; neither do I believe that he was really concerned in the affair. Commander Winslow's subsequent proceedings and disavowal of all evil intention would seem to be sufficient to satisfy any requisition of the British government.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WM. H. SEWARD, &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 574.]

LEGATION OF THE UNITED STATES,

London, January 14, 1864.

SIR: I have prepared a note to Lord Russell, based on the instructions contained in your despatch, No. 789, and the copy of the whole report of Mr. Mallory, which has been received here as printed in the New York Times of the 30th December. But on a close examination of this paper so much of it seemed to justify a suspicion of its entire genuineness that I have concluded to defer sending it at least until after the receipt of further intelligence from America. It is not unlikely that some further notice of the report, after it shall have reached you in its full extent, may accompany the copy you expressed an intention to transmit when obtained.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WM. H. SEWARD, &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 575.]

LEGATION OF THE UNITED STATES,
London, January 15, 1864.

SIR: I was very glad to receive a visit on Sunday evening last from Mr. Evarts, who had just arrived in London from America, in the steamer *Australasian*. He came just in time for the decision of the court of exchequer in the case of the *Alexandra*, which was delivered on Monday. The opinions of the four judges were read *seriatim*. A copy of the report in the *Times* has been already transmitted to you from this legation. The result is as I have already hinted to you it was likely to be. There had been some expectation of an agreement. The facility with which the arrangement was made for an appeal leads me to infer that this was, on the whole, not unacceptable to the government. The practical effect of it is to suspend the matter for some time longer, a result not altogether disadvantageous. It is impossible to deny that public opinion is essentially changing in regard to the obligation of this country to prevent the gross violations of neutrality that have been heretofore tolerated. The sympathy with the rebels is waning in proportion as the character of their reckless and desperate proceedings becomes well understood. The speeches of members of Parliament during the present season show something of this. Those made by Mr. Massey and Mr. Buxton are more particularly deserving of attention on this account. Mr. Foster's is in a different style, but equally shows his sense of the altered aspect of the question. The understanding is general that no action can possibly be expected in Parliament. The labor expended in circulating petitions is now confined to the promotion of the cessation of hostilities, and the appeal is particularly addressed to the clergy. The threatening aspect of continental politics renders any more decided policy hopeless.

I perceive in the newspapers a notice that the case of the *Pampero*, at Glasgow, is to be soon brought into court.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WM. H. SEWARD, &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 576.]

LEGATION OF THE UNITED STATES,
London, January 15, 1864.

SIR: I have the honor to transmit copies of my note to Lord Russell of the 9th instant, and of one to me from Mr. Morse, consul at London, of the 6th, with four additional depositions in regard to the steamship *Victor*, and of his lordship's acknowledgment of the same.

Likewise copies of my note to him of the 11th instant, of Mr. Dudley's to me of the 9th, and of the deposition of Thomas Matthews of the same date, establishing the agency of Messrs. Jones & Co. in enlisting men in this kingdom to make war on the United States. I also enclose a copy of his lordship's acknowledgment of the same of the 13th instant.

At the same time I forward a copy of a note addressed by me to his lordship on the 13th instant, with copies of a letter from Mr. Dudley of the 11th and several additional depositions relating to the shipment and payment of men at Liverpool, to serve on the piratical vessel No. 290, *alias* the *Alabama*.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,
London, January 9, 1864.

MY LORD: I have the honor to submit to your consideration the copy of a letter from Mr. Morse, the consul of the United States at this port, together with copies of four depositions containing further evidence relating to the proceedings at Sheerness, in the case of the steamship Victor.

I pray your lordship to accept the assurances of the highest consideration with which I have the honor to be, my lord, your most obedient servant,

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c., &c.

Mr. Morse to Mr. Adams.

UNITED STATES CONSULATE,
London, January 6, 1864.

SIR: I herewith enclose four affidavits in the Rappahannock case. You will notice that two of them are given by *English sailors*, who were engaged and signed an agreement of some sort in this port to serve on board the Rappahannock, while the mere form of placing their names to the articles was done at Calais, though the obligation to do so was made here. Please notice also that the French authorities at Calais are aiding the rebels by arresting seamen who leave the ship.

I am, sir, your obedient servant,

F. H. MORSE, *Consul.*

Hon. CHARLES F. ADAMS, &c., &c., &c.

Deposition of George White.

I, George White, of Liverpool, leading stoker, do solemnly, sincerely, and truly swear that in November last I was sent for by a friend, who informed me that he had heard of a good thing, and one that would pay well, if I came to Sheerness. I went to Sheerness, and was introduced to Mr. Ramsey, who sent me to work on board the screw steamship Victor, then lying in the stream. While on board her name was altered to Scylla. I was told she was for blockade running. After remaining on board about fourteen days, during which time her masts were put in by her Majesty's ship Cumberland, she suddenly left port. We had no notice of her leaving until two hours before she sailed. The fires were got up, and we were towed out of the harbor, and anchored just below the Nore light for the night. The next morning steamed for Calais, and went into the harbor and made fast alongside. Mr. Rumble and Mr. Ramsey introduced all the working hands on board the Scylla that left Sheerness, and none of them would have gone without such introduction. After arrival at Calais I, with J. Brooks and Maloney, was employed at work on board. At Sheerness engine-room stores were put on board while she lay in the stream; they consisted of gauge-cocks for the boilers, blocks and other things, having the government mark upon them. These things we were ordered to bury under the coal, so that the police should not see them. Both Mr. Rumble and Mr. Ramsey ordered us to put them out of sight; they are on board the Rappahannock

now. Some deserters from the ship *Formidable* are serving on board the *Rapahannock*, and some others whose discharge has been bought for them; they came from the *Cumberland*. Of these men about a dozen remain on board. Some are put in irons if they attempt to leave, and the French authorities arrest them, as they allow £4 for each returned deserter. Mr. Rennie's men are still engaged tubing the boilers. The ship will be completed and fit for sea by about Saturday week next.

GEORGE WHITE.

Sworn at my office, No. 5 White Hart Court, Lombard street, in the city of London, this first day of January, 1864, before me,

JOHN T. ANDREW,

A London Commissioner, &c.

Deposition of Andrew McEune.

I, Andrew McEune, of Liverpool, seaman, do hereby truly and solemnly and sincerely swear that on Tuesday, December —, I went to a public house in Sharp street, or Royal Mint street, and saw a Mr. Anson, who engaged me to join the *Scylla*, then lying in the Downs. I signed an agreement for wages at the rate of £3 15s. per month. Two days after, I, with about thirty others, was taken by express train to Dover, and from thence to Calais; after arrival at Calais, we went on board the ship. After remaining two days, some of the men made a disturbance, and we were all sent ashore. The captain then came and picked some of us out, and the next morning I signed articles, and was to have had £10 bounty. Captain Campbell told me he would keep that in the strong chest for me. I have not received that yet. The articles we signed were "to join the confederate service; to receive prize money, which was to be paid down by the captain when the prizes were taken, and the wages were to be £4 8s. per month." They also promised us four shillings a day while in port, besides our bounty, and leave every Saturday night. This we did not get, and when we complained they threatened to put us in irons. One man was put in irons last Sunday, and remains so now. He wanted to leave.

Yesterday I got liberty and received ten francs. I then left the ship and went on board the steamer to return to England, finding I was not sure of my wages, and not liking the treatment I received on board. There are some men-of-war's men on board from the English service. Some deserted and two or three had their discharge paid for them. They are seaman gunners.

ANDREW MCEUNE.

Sworn at my office, No. 5 White Hart Court, Lombard street, in the city of London, this 1st day of January, 1864, before me,

JOHN T. ANDREW,

A London Commissioner, &c.

Deposition of William Hewson.

I, William Hewson, of Plymouth, able seaman, do hereby solemnly, sincerely, and truly swear that on Tuesday, December —, I went to a public house in Sharp street, or Royal Mint street, and saw Mr. Anson, who shipped me for the screw steamship *Scylla*, of London, to run the blockade, at the rate of £3 15s. per month wages. I was taken from London by the train for Dover, and from thence to Calais. On arrival there I was not allowed on board the ship, which was at the pier, for two hours. I was then called aft, and Captain Campbell called

several of us aft, and picked out the Englishmen, whom he thought were good men, about twelve in number. He promised me four shillings a day to assist to get the ship out, and that he would give me on the following Saturday £10 bounty. I signed articles at £4 8s. per month, which was to remain until I was rated as gunner's mate, and then I was to have higher wages, with prize money and other advantages. I staid by the ship, but did not get the bounty, and only ten francs during the five weeks I remained by her. Seeing how things were going to be, I made up my mind to leave. Suspecting my design, the first officer and second officer threatened me, and put a revolver to my mouth, and another to my eye. And I feel assured that they would have shot me had I attempted to leave. I was with another locked up in a water-closet for five days, and our food was brought to us there. It was not fit for a dog to be in. I at last got liberty for twenty-four hours, and received the ten francs named before, and immediately went on board the steamer and returned to Dover, from thence to London. There were nine or more men-of-war's men on board, nearly all of them are deserters from Sheerness. They would desert from the Rappahannock if they could get on shore, but they are refused leave.

WILLIAM HEWSON.

Sworn at my office, No. 5 White Hart Court, Lombard street, in the city of London, this 1st January, 1864, before me,

JOHN T. ANDREW,
A London Commissioner, &c., &c.

Deposition of Thomas Bryant.

I, Thomas Bryant, of London, fireman, do hereby truly, sincerely, and solemnly swear that on the 23d of December last I went to John Seymour's, Well-close square, and agreed with him to join the steamer lying at Calais, and signed a paper, so that if I went to the ship he would draw thirty-two dollars advance for me. I understood them as articles, and the wages were to be at the rate of thirty-two dollars per month; on Christmas morning, at two o'clock, I went to London bridge with my boarding-house keeper, and saw ten men go off to France by the Boulogne boat. While there I was told the name of the steamer at Calais was the Rappahannock, and that she was a confederate cruiser. After I heard that, I refused to go in her, and told Seymour so on the pier at London bridge, and I have not seen him since. Seymour knew I was an Englishman, and wanted me to sign as a Dutchman, which I declined.

his
THOMAS × BRYANT.
mark.

Witness to the sign or mark of Thomas Bryant:

JOSHUA MANN.

Sworn by the deponent, Thomas Bryant, at No. 5 White Hart Court, Lombard street, in the city of London, this 5th day of January, 1864, the witness to the mark of the deponent being first sworn that he had truly, distinctly, and audibly read over the contents of the above affidavit to the said deponent, and that he saw him make his mark thereto, before me,

JOHN T. ANDREW,
A London Commissioner to administer Oaths in Chancery.

Earl Russell to Mr. Adams.

FOREIGN OFFICE, January 11, 1864.

SIR: I have the honor to acknowledge the receipt of your letter of the 9th

instant, enclosing copies of further depositions relative to the steamship Victor, otherwise Rappahannock, and I have to inform you that these papers have been communicated to the proper department of her Majesty's government.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, &c., &c., &c.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,

London, January 11, 1864.

MY LORD: I have the honor to submit to your consideration the copies of a letter from Mr. Dudley, consul of the United States at Liverpool, and of the deposition of Thomas Matthews, going most clearly to establish the proof of the agency of Messrs. Jones & Co. in enlisting and paying British subjects in this kingdom to carry on war against the United States.

I pray your lordship, &c., &c.

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c.

Mr. Dudley to Mr. Adams.

UNITED STATES CONSULATE,

Liverpool, January 9, 1864.

SIR: Referring to despatches from myself to you, one dated December 1, 1863, and the other on the 6th instant, and the connexion of Jones & Co. of 28 Chapel street, Liverpool, in fitting out the pirate Georgia and enlisting men in Liverpool for this vessel, I have now to inform you that this same firm, in connexion with one Charles Mattman, of Eustace street, in Liverpool, an Englishman, belonging to the naval reserve, on the 29th of December last, enlisted in Liverpool for the said steamer Georgia, now at Cherbourg, and the steamer Florida, now at Brest, some twenty-one British seamen, and on the same day conveyed them from Liverpool in a steamer bound for Havre. I enclose you a copy of Thomas Matthews's affidavit, one of the men that shipped and went to Havre, establishing the above facts. You will see that two of the men so shipped, named George King and Thomas Smith, belong to the naval reserve. The affidavit also discloses the facts that the firm of Jones & Co. paid half the wages earned by the witness, while on board of the Georgia, to his wife here in Liverpool, the last payment of which was made to her on the 13th of December last, while her husband was at his home in Liverpool; and that they have been boarding the men from this vessel, or at least one of them, here in Liverpool since the ship has been at Cherbourg.

I have the honor to be, sir, very respectfully, your obedient servant,

THOMAS H. DUDLEY.

HON. CHARLES FRANCIS ADAMS,
United States Minister.

Deposition of Thomas Matthews.

I, Thomas Matthews, of No. 37 Gloucester street, Liverpool, painter, make oath and say: In the month of March, 1863, I was lodging with Mr. Charles Mattman, of Eustace street, Liverpool, and was informed by him that there was

a chance for me to go to China in the Japan, for a two years' voyage. I understood that the vessel was not going to China, although she would be entered out for that place. He also told me that there was a good chance for me to make plenty of money. I agreed to go in her, and Mr. Mattman and myself left Liverpool for Greenock, where the Japan was lying. About the 28th or 29th of March last I signed articles for two years, at £4 10s. a month, and joined the Japan on the 1st of April. We left Greenock on the 2d of April, and after we had been at sea about eight or nine days we fell in with a small steamer called the Alar, which followed us to Ushant bay, where we took in cases of arms and ammunition from her. Mr. Jones, of Chapel street, Liverpool, came on board the Japan from the Alar, with several men who agreed to join us. We signed articles again, to serve on the Japan in the confederate service, and were each paid £10 bounty upon signing articles. Mr. Jones brought the bounty money with him, which was paid to us by Mr. Curtis, the purser. I asked Mr. Jones if I could have half pay for my wife, when he said I could, and that he would arrange that when he arrived home. Mr. Mattman, who is a naval reserve man, also joined the Japan as boatswain. After we had signed articles I was ordered to paint over the name of Japan, and the vessel was then called the Georgia. Mr. Jones returned in the small steamer, and we then commenced our cruise, during which we captured and destroyed several United States vessels and ransomed several others. We returned to Cherbourg, in France, for repairs, and about the 6th or 7th of December last I got leave of absence for eight days, and was paid £1 5s. Before leaving, I asked the purser to whom I was to apply in Liverpool for money to pay my passage back to Havre, when he directed me to call at Mr. Jones's office, Chapel street Liverpool, for the money, and that he would write Mr. Jones to that effect. At the expiration of the term of my leave of absence I called at Mr. Jones's office, where I saw Mr. Mattman, the boatswain. I saw one of the clerks in Jones's office who told me that they had received a letter for my passage money to be paid to Havre, and that Mr. Jones and Mr. Hyatt were both from home, and that I must call again in a day or two. I called several times without being able to see either Mr. Jones or Mr. Hyatt until Saturday, the 27th of December last, when I called and saw both Mr. Jones and Mr. Hyatt. Mr. Hyatt asked me what I wanted. I told him that I had come to join the ship. He said, "What ship?" I told him the confederate steamer Georgia, now lying at Cherbourg. He then asked me what was my name, and upon my telling him, he said they had a letter directing them to pay my fare round to Havre, and he read the letter over to me; in substance, the purport of the letter was that they should pay my fare round to Cherbourg, but were not to give me any money. Whilst the letter was being read over to me, Robert Broadway, one of the Georgia's crew, was in their office along with Mr. Thomson, of Pitt street, Liverpool, publican and boarding-house keeper. Mr. Jones then told me that he was supposed to know nothing about either me or the ship, so that I knew how to act, and that there were people in the town ready to pick up any information about us. Mr. Hyatt then told me to be at the Havre steamer on the following Monday morning at 11 o'clock, and that either he himself or some one else would be there to pay my fare and see me off.

I went to the Havre steamer, as directed, on the Monday morning, and there saw Mr. Mattman, the boatswain. I had a friend with me who had come to see me off, when Mr. Mattman called me aside and asked me if he was not a detective. I told him that he was not, when he said, "All right, I must take care what I am doing." I then asked Mr. Mattman whether he was going to pay my passage round to Cherbourg, when he said, "Yes, I am going round to the ship myself." I then went on board the steamer with him and he arranged about my passage money, and we left Liverpool the same day for Havre. When I got on board I saw Robert Broadway and about nineteen or twenty

other men. All these men were in Mr. Mattman's charge, but part of them were brought down by Mr. Edward Campbell of Regent street, boarding-house keeper. Mr. Mattman paid their fares to Havre. Mr. Mattman told me that part of these men were for the confederate steamer Florida and part for the Georgia. We arrived at Havre on the 31st of December, where I left the party, but the rest proceeded to the Albion Hotel there, and staid the night, and on the 1st of January, instant, started for Cherbourg. I left Havre on the 4th of January and arrived in Liverpool on the 7th. During my last visit to Jones's office, whilst Broadway and Thomson were there, Thomson said to Mr. Hyatt, this man (meaning Broadway) owes me £1 12s. for two weeks' board. Hyatt asked if this was right, when Broadway said, "Yes." Hyatt then said to one of the clerks at the desk, pay this man £1 12s. and take a receipt. He then said no, we will not pay it him now; make out a bill and bring it on Monday, after the man has gone, and we will then pay it. My wife has called regularly every month, whilst I was serving on the Georgia, at Jones's office and received my half pay there; and she received the last payment on the 13th of December last, £2 10s., whilst I was at home. Two of the men who went round with us to Havre, named George King and Thomas Smith, were naval reserve men, belonging to the Eagle, now lying at Liverpool. On the 4th or 5th of November last, whilst we were lying at Cherbourg, I asked Captain Maury for some money, when he said he would write to the agents in Liverpool to pay my wife £10. And I wrote to my wife to call at Jones's office for it, which she did, and Mr. Hyatt paid her the money.

THOMAS MATTHEWS.

Sworn at Liverpool, 9th of January, 1864, before
JOHN BUSHELL, *A Commissioner, &c.*

Earl Russell to Mr. Adams.

FOREIGN OFFICE, *January 13, 1864.*

SIR: I have the honor to acknowledge the receipt of your letter of the 11th instant, and its enclosures, respecting the alleged engagement of seamen at Liverpool for the service of the so-styled Confederate States, and I have to inform you that I have lost no time in forwarding your letter to the proper department of her Majesty's government.

I have the honor, &c., &c.,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,

London, January 13, 1864.

MY LORD: I pray your attention to copies of a letter of the consul of the United States at Liverpool, and of three depositions, all going cumulatively to prove the manner in which the neutrality of her Majesty's realm has been abused by some of her subjects, for the purpose of carrying on war against the United States. I have every reason to suppose that these proceedings are continued without material diminution.

I pray your lordship to accept, &c.,

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c., &c.

r. Dudley to Mr. Adams.

UNITED STATES CONSULATE,

Liverpool, January 11, 1864.

SIR: I beg to call your attention to copies of these affidavits—one of John Latham; another of his wife, Martha Latham, and the other that of Thomas Winstinley—enclosed.

It is a well-known fact that the steamer Alabama, which was built and fitted out at this port, and manned by British seamen, regularly receives her coal and supplies from this country, and that the families of the men now serving on board are paid once a month here in Liverpool by M. G. Klingender & Co. and Frazer, Trenholm & Co., the one-half part of the wages earned by the men on board this vessel. John Latham, of Swansea, in Wales, was one of the men who enlisted on said steamer. During the time of his service on board, his wife, Martha Latham, received regularly each month the one-half part of his wages, which was sent to her by M. G. Klingender & Co., of 22 Water street, Liverpool. The money was transmitted in post office orders. The letters in which this money was sent are annexed to her affidavit, and copies enclosed to you. At the time of enlisting Mr. Latham received a bounty. He sent £5 of this to his wife by Captain James D. Bullock. This £5 was paid to Thomas Winstinley for her at Frazer, Trenholm & Co.'s office, by their cashier.

I regard these affidavits as important, to show the character and nationality (if she has any) of this vessel, which, built in England, fitted out in England, armed with English guns and manned by English seamen, supplied with coal and other necessities while cruising, from England in English vessels, by English merchants, and the wages earned by the men while serving on board paid here in Liverpool by these same merchants to their wives and families residing here, stamp her, it seems to me, if anything can, as an English piratical craft.

I am, sir, very respectfully, your obedient servant,

THOMAS H. DUDLEY.

Hon. CHARLES FRANCIS ADAMS,

United States Minister.

Deposition of John Latham.

I, John Latham, of 36 Jasper street, Liverpool, in the county of Lancaster, engineer, make oath and say as follows:

1. About the 8th or 10th of August, 1862, I signed articles at the Sailors' Home, Liverpool, to ship in the steamship Bahama, Captain Tessier, for a voyage to Nassau and back. The Bahama went out of the Bramley Moore dock the same night, about 12 o'clock, and went into the river and lay to; Captain Semmes, Captain James D. Bullock and some other officers came on board, and about half past 7 o'clock a. m. a tug-boat came alongside with some seamen on board. The tug-boat accompanied us out about ten miles. The tug then left us, and a tall gentleman, with a reddish face and pock-marked, who came from Cunard, Wilson & Co.'s office, left us and went into the tug. As he left us he said "I hope you will make a good thing of it, and that you will stop where you are going to." We then proceeded on our voyage, and stood out some days, when we found we were going to the Western isles. About the 17th or 18th of August we arrived at Terceira, and we there found the Alabama and the bark Agrippina. Captain Butcher, who was on board the Alabama, hailed us and told us to go around the island, and he would be after us, but it would take them three-quarters of an hour to get his steam up. We went on and he followed us. The Alabama went under the lee of the island, and a shot

was fired across the Bahama's bows from a battery on shore; so we stopped out until the morning. In the morning we went alongside the Alabama, and some small cases, and a safe containing money, were passed into the Alabama from our ship, and we then parted and anchored a little distance from her, and the bark Agrippina went and discharged the remainder of her cargo into the Alabama. During this time Captain Semmes and Captain Bullock were going backwards and forwards to the Alabama, but would not let any of the officers go. On Monday, the 24th of August, Captain Semmes came on board the Bahama and called us under the bridge—he himself and the officers standing on the bridge. He addressed us and said, "Now, my lads, there is the ship, (pointing to the Alabama;) she is as fine a vessel as ever floated. There is a chance which seldom offers itself to a British seaman, that is, to make a little money. I am not going to put you alongside of a frigate at first, but after I have got you drilled a little, I will give you a nice fight." He said, "There are only six ships that I am afraid of in the United States navy." He said, "We are going to burn, sink, and destroy the commerce of the United States. Your prize money will be divided proportionably according to each man's rank, something similar to the English navy." Some of the men objected, being naval reserve men. Captain Semmes said, "Never mind that, I will make that all right. I will put you in English ports, where you can get your book signed every three months." He then said, "Is Mr. Kell on the deck? and all those who are desirous of going with me, let them go aft and give Mr. Kell their names." A great many went aft, but some refused. A boat came from the Alabama, and those who had agreed to go went on board. Captain Semmes and the officers went on board. Mr. Low, the fourth lieutenant, then appeared in uniform, and he came on board the Bahama, endeavoring to induce the men to come forward and join, and he succeeded in getting the best part of us. I was one who went at the last minute. When I got on board the Alabama I found a great number of men that had gone on board of her from Liverpool. Captain Semmes then addressed us on board the Alabama, and Captain Butcher was there also, who had taken the vessel out. Captain Semmes said he hoped we all would content ourselves, and be comfortable one among another; but any of you that thinks he cannot stand to his gun, I don't want. He then called the purser, and such as agreed to serve signed articles on the companion hatch, and on signing the men received either two months' pay in advance, or one month's wages and a half-pay note. I took a month's wages and a half-pay note for £3 10s. in favor of my wife, Martha Latham, 19 Wellington street, Swansea. The note was drawn on Fraser, Trenholm & Co., Liverpool, but it was paid by Mr. Klingenders, in Liverpool. The note was signed by Captain Semmes, Yonge, who was the paymaster, and Smith, the captain's clerk. I sent £5 and this half-pay note ashore by Captain Bullock, and he forwarded it with a letter to my wife.

3. Captain Bullock, on the passage out, and after we arrived at Terceira, used arguments to induce us to join the Alabama. On several occasions he advised us and urged the men to join.

4. As soon as the men who consented to go had all signed articles, the English ensign, which the Alabama had been flying, was pulled down and the confederate flag was hoisted, and a gun fired. The men who declined joining left the ship with Captains Bullock and Butcher for the Bahama, and we proceeded under the command of Captain Semmes, and I have in the schedule hereto annexed given a list of the officers and men, with their places of residence.

5. We proceeded on our voyage and cruised about the Western islands for some days, and on the following Sunday we fell in with a whaler and burned her, and we then cruised about, and in about two days we fell in with the schooner Starlight, from Boston. We fired at her four times. Her captain said "If I had but one gun on board I would fight you." He tried to make the

land, but we overhauled him, and he brought to. We kept the crew of the schooner, and on the next day we landed them at the Western isles, and took the schooner in tow for the purpose of decoying other vessels with the stars and stripes. We succeeded in capturing several. Among other vessels, we captured the *Manchester*, of Philadelphia line of packets, bound from New York to Liverpool. We burnt this vessel, having first taken her crew, and we put them on board the *Tonawanda*, which we had previously captured, and had them in tow. Amongst the crew there was a man of the name of George Forrest, who one of the midshipmen recognized as having been a seaman on board the *Sumter*, and had deserted. He was brought on board to Captain Semmes, who told him if he behaved well he should have his pay and prize money as the other men, but that he had a right to detain him throughout the war, without paying him one cent. Forrest was retained on board the *Alabama*, was frequently punished by having his hands and legs fastened to the rigging, the punishment being known as "the spread eagle," and he would be kept in this position for four hours at a time, and this was done at least twenty times, and at last they ironed his legs and arms and sent him on shore, on a deserted island called Blencola, some 200 miles from the main land, and left him. The crew subscribed some £17, unknown to Captain Semmes, which we gave him in the hope of its being some inducement to a vessel to take him off.

6. The bark *Agrippina*, flying the British flag and loaded with coals, from Cardiff, was at Martinique when we arrived there, and she went out to sea, and whilst out she supplied us with coal; after that we went to Arkashees, where we stopped and painted the ship, and then made toward Galveston, and off that place we fell in with the American ship *Hatteras*, which we sunk; we got her crew on board and proceeded to Port Royal, Jamaica; there I ran away, and left the *Alabama*; whilst there the *Alabama* enlisted two British sailors who had deserted from her Majesty's ships *Jason* and *Steady*; Thomas Potter, who was fireman, also ran away, but the men of the *Alabama* came after him, and arrested him, and took him back to the ship; Clarence Yonge, the purser, also left the ship; I was also arrested at an hotel in Jamaica by the *Alabama* crew; they wanted to force me on board, but I refused to go until I had seen the governor of the island, whose residence was some fifteen miles distant; and I saw the superintendent of the police, who, on my producing a certificate that I was a naval coast volunteer, on board of her Majesty's ship *Majestic*, I was released.

7. My wife received my half pay; she used to receive it by post office order, payable at Swansea; and to obtain this, she every month used to write to Messrs. Fraser, Trenholm & Co., or M. G. Klingender & Co., Liverpool, enclosing the half-pay notes, and the latter firm used to send her a post office order for £3 9s. 5d., deducting the cost of the order and the postage. In February or March she wrote as usual for the half pay; they wrote, in reply, that they could send her no more money, as I had left the ship; but they did not return her the half-pay note.

8. On my return I called at Fraser, Trenholm & Co.'s office for the balance of my wages, but they declined to pay me, and denied all knowledge of the ship; but Mr. Cooper gave me the name of Mr. M. G. Klingender, and told me to see him, and see if he could arrange it. I did so, but he told me he would not do so, as they had received a note from Captain Semmes that I had deserted at Jamaica.

9. The guns comprising the armament on the *Alabama* have Fawcett, Preston & Co.'s marks on them. They were made by this firm.

JOHN LATHAM.

Sworn at Liverpool, the 8th of January, 1864, before,

J. PEARSON,

A Commissioner, &c.

Schedule before referred to—officers and crew of the steamer Alabama.

Raphael Semmes, commander.

J. N. Kell, first lieutenant.

Richard F. Armstrong, second lieutenant.

Joseph Wilson, third lieutenant.

John Low, fourth lieutenant.

———, Englishman.

Arthur Sinclair, master, (that is, sailing-master.)

Francis L. Galt, surgeon, from Virginia; now acting as paymaster.

Miles J. Freeman, first assistant engineer, ranks as chief; born in Wales; does not know whether naturalized.

David Herbert Llewellyn, assistant surgeon, Englishman.

B. H. Howell, brother-in-law of Jeff. Davis, lieutenant of marines.

(No marines on board.)

W. H. Sinclair, midshipman.

Irving S. Bullock, midshipman; Captain Bullock's brother.

Eugene Maffitt, midshipman; Captain Maffitt's son.

Edward Maffitt Anderson, midshipman; son of Colonel Anderson.

W. P. Brooks, second assistant engineer.

S. N. Cumming, third assistant engineer.

Matthew O'Brien, third assistant engineer.

John M. Pundt, third assistant engineer.

George T. Fulham, first master's mate, Englishman.

James Evans, second master's mate, Charleston pilot.

W. D. Smith, captain's clerk.

Benjamin L. McCosky, boatswain.

F. O. Caddy, gunner.

William Robinson, carpenter.

Henry Alcott, sailmaker, Englishman.

Clarence R. Yonge, paymaster.

Petty officers and seamen.

James King, master-at-arms, Savannah pilot.

Adolphus Warmley, Portuguese.

W. A. Ring, quartermaster.

James G. Dent, quartermaster.

William Forrestall, quartermaster, Englishman.

Ralph Masters, quartermaster gunner, Irishman.

William Crawford, Englishman; lives in Liverpool; belongs to royal naval reserve.

George Addison, Englishman; lives in Liverpool.

William Brinton, Englishman; royal naval reserve.

——— Robinson, head carpenter.

George Harwood, boatswain's mate; English pensioner; from English navy; joined her at Liverpool home; now is a southerner, as boatswain; lives in Liverpool.

Michael Kinshler, Irishman, fireman; has a pension in England.

Brent Johnson, second boatswain's mate, Englishman; naval reserve man; joined vessel at Liverpool.

William Purdy, sailmaker, Irishman by birth; lives in Liverpool; belongs to naval reserve; joined her in Liverpool.

John Latham, fireman, an Englishman; belongs to coast volunteers; enlisted on Alabama at Terceira.

Daniel Roach, fireman, Englishman; resides at Liverpool; belongs to royal navy reserve; enlisted in Liverpool; left her 22d November.

Thomas Murphy, fireman, Englishman; left her in Western islands.

Thomas Welch, Englishman; left the ship; enlisted in Alabama in Liverpool.

James Smith, captain of forecastle, Englishman; residing in Liverpool; belongs to naval reserve; enlisted on board of Alabama in Liverpool.

Edward Fitzmorris, Englishman; enlisted in Alabama in Liverpool; is at home now; his wife lives at Aigburth.

George Addison, fireman; lives at Liverpool, Copperal Hill; enlisted at Terceira.

James McFudgeon, fireman, Englishman; lives at No. 6 West Derby street; enlisted at Terceira; now at home.

Thomas Potter, Englishman, enlisted in Alabama at Liverpool; lives in Arch street, Liverpool; deserted at Jamaica; they arrested him at Jamaica and carried him on board; his wife lives in Liverpool now.

Samuel Williams, fireman, lives in Liverpool, born in Wales; enlisted in Alabama at Liverpool.

Patrick Bradley, fireman, Englishman, resides in Liverpool; enlisted there.

John Origen, fireman, Irishman; resides in School street, Liverpool; enlisted there.

Oran Duffy, fireman, Irishman.

Peter Duncan, fireman, Englishman; resides in Liverpool; enlisted in Liverpool.

William Nevins, coal-passers, Englishman; belongs to naval reserve; enlisted at Liverpool.

Andrew Shilling, Scotchman; resides at Athol street, Liverpool; has a wife; enlisted at Liverpool; is a fireman.

Charles Puist, coal-passers, is a German.

George Yeoman, ordinary seaman, Englishman; enlisted at Terceira.

George Fremantle, seaman, Englishman; enlisted at Terceira.

Frederick Johns, purser's steward, Englishman; resides in Liverpool; his father keeps a coal-yard in Howard street; enlisted at Terceira.

John Grandy, boy, English; lives in Liverpool.

Thomas Weir, gunner's mate, Englishman; enlisted at Liverpool.

James Busman, seaman, Englishman.

Edgar Tripp, seaman, Englishman; lives in London; enlisted in Liverpool.

John Neil, seaman, Englishman; lives with his sister in Manchester street, Liverpool; belongs to naval reserve; enlisted at Terceira.

Thomas Winter, fireman, Englishman; lives in Liverpool; his father is ticket collector at the Adelphi theatre; enlisted in Liverpool.

Samuel Henry, seaman, Englishman; resides in Liverpool; naval reserve man; enlisted in Liverpool.

John Roberts, seaman, Welchman; think he resides at Liverpool; enlisted at Terceira.

John Duggan, seaman, Englishman; resides in Liverpool; belongs to naval reserve; enlisted at Terceira.

Martin Ring, seaman.

Thomas Williams, seaman, Englishman; resides in Liverpool; belongs to naval reserve; enlisted at Terciera.

Robert Williams, seaman, Englishman; resides in Liverpool; belongs to naval reserve; enlisted at Terceira.

Joseph Pearson, seaman, Englishman; belongs to Chester; enlisted at Liverpool.

Joseph Conner, seaman, Englishman; resides in Walnut street. His wife lives there and keeps a butcher's shop; belongs to naval reserve; enlisted at Terceira.

Thomas McMullen, seaman, Englishman; resides in Liverpool; joined at Terceira.

Michael May, seaman, Englishman; belongs to Bristol; naval reserve; joined at Terceira.

Robert Egan, boy, English; belongs to Chuley.

Malcolm McFarland, seaman, Scotchman; resides in Liverpool; belongs to naval reserve; enlisted at Terceira.

Peter Henry, seaman, Irishman; lives in Liverpool; enlisted at Terceira.

Charles Goodwin, seaman, Englishman; resides in Liverpool; enlisted at Terceira.

James Hicks, captain of the hold; Englishman; resides in Liverpool; enlisted in Liverpool.

George Appleby, yeoman, Englishman; resides in Liverpool; married man; enlisted in Liverpool.

John Emory, seaman, Englishman; resides in Liverpool; belongs to naval reserve; enlisted at Terceira.

William Hearn, seaman, Englishman; resides in Liverpool; belongs to naval reserve; enlisted at Terceira.

Thomas L. Parker, boy, English; stops with Brent Johnson.

A. G. Bartelle, seaman, Portuguese.

Peter Hughes, captain of top; Englishman; resides in Liverpool; belongs to naval reserve; enlisted at Liverpool.

Henry Fisher, seaman, enlisted at Liverpool.

Frank Townsend, seaman, Englishman; enlisted in Liverpool.

George Forrest, seaman, Irishman; taken off the ship *Manchester* because he had deserted from the *Sumter*, and tried by a court-martial for causing mutiny, and sent on shore, in irons, to island Blanco and left there. Previous to his being tried for mutiny he was tied up twenty times in the rigging with his arms spread, for four hours at a time, day and night.

Robert Parkinson, wardroom steward, Englishman; resides in Liverpool; enlisted in Liverpool.

Deposition of Martha Latham.

I, Martha Latham, of 18 Wellington street, Swansea, in the county of Glamorgan, wife of John Latham, make oath and say as follows:

My husband was one of the crew of the steamer *Alabama*. In the month of August, 1862, my husband, who was in Liverpool, wrote me that he was going out in the steamer *Bahama*, to run the blockade. Some weeks after that I received a letter from my husband, dated at the Western islands, stating that he had joined the steamer *Alabama*, for £7 a month. On the same day I received a letter from Captain James D. Bullock, enclosing me a half-pay note, signed by Captain Semmes, for the half pay of my husband, while he served on board of said steamer *Alabama*. The note was payable to me at Fraser, Trenholm & Co.'s, in Liverpool. In the latter part of August, or first part of September, 1862, my husband's cousin, Thomas Mistainly, 36 Jasper street, Liverpool, received £5 for me from the office in Liverpool. I had sent him Captain Bullock's letter, and the one from my husband. I sent my half-pay note to Liverpool to draw the money on it. It was returned to me in the letter annexed hereto, marked "A." I signed my name and sent it to the office of M. G. Klingender & Co., Liverpool, who sent me £3 10s. less seven pence, the expenses. It was sent to me in a post office order, in a letter dated October 3, 1862, annexed hereto, and marked on back, "Exhibit B." On the 31st October, 1862, M. G. Klingender & Co. sent me another letter, enclosing me another order for £3 9s. 6d. being another month's half pay on said note.

On the 31st of December, 1862, the Messrs. Klingender & Co. sent me another letter, enclosing me an order for £3 9s. 6d. on account of said note. The letter is annexed hereto, and marked "Exhibit C." On the back I received another half pay of £3 9s. 6d. It must have been in January, but the letter in which it was sent, as well as the letter written to me by Captain Bullock, above mentioned, has been mislaid. All the money orders were paid to me. In February or March I received from M. G. Klingender & Co. a letter without date, stating that my husband had deserted, and stopping the pay on the allotment note. I had been in the habit of sending them the note every time I drew the money. The last time I sent it they retained it, and sent me the last-mentioned letter, but no money. They still have the allotment note in their possession. The letter from M. G. Klingender & Co., dated 31st October, 1862, above mentioned, is annexed hereto, and marked "Exhibit D."

The last letter from them to me without date, above mentioned, is also annexed hereto, and marked "Exhibit E."

MARTHA LATHAM.

Sworn and subscribed to this 3d day of December, 1863.

J. ROLLY FRIPP,

*A Commissioner for taking Oaths in the
Court of Queen's Bench at Westminster.*

A.

LIVERPOOL, *September 30, 1862.*

Messrs. M. G. Klingender & Co. must request Mrs. Martha Latham, before paying her the £3 10s. to sign her name at the back of the allotment note, and then return it to them, when they will remit her a money order for the amount, less cost of order.

Mrs. M. LATHAM,

19 Wellington street, Swansea, South Wales.

P. S.—Please note address, No. 22 Water street, Liverpool.

EXHIBIT B.

LIVERPOOL, *22 Water street, October 3, 1862.*

MADAM: Enclosed please find a money order, payable at the post office of your town, for £3 9s. 5d. In future you must send us your allotment note, signed across a receipt stamp.

Returning you the note, we are yours, &c.

Per M. G. KLINGENDER & CO.,
C. F. VAN MELLE.

Money order, £3 9s. 5d.

Cost of order, 6d.

Receipt stamp, 1d.

3 10s. 0d.

Mrs. MARTHA LATHAM,

19 Wellington street, Swansea, South Wales.

EXHIBIT D.

LIVERPOOL, *October 31, 1862.*

MADAM: We enclose you a money order for £3 9s. 6d., payable at the post office of your town.

Returning you the note, we are yours, &c.,

Per M. G. KLINGENDER & CO.,
C. F. VAN MELLE.

Cost of order,	£3 9s. 6d.
	6d.
	<hr/>
	3 10s. 0d.
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Mrs. MARTHA LATHAM,
19 *Wellington street, Swansea, South Wales.*

EXHIBIT C.

LIVERPOOL, *December 31, 1862.*

Messrs. Klingender & Co. enclose Mrs. Martha Latham a post office order for £3 9s. 6d., deducting, as usual, 6d. for cost of order.

MARTHA LATHAM,
No. 19 Wellington street, Swansea, South Wales.

EXHIBIT E.

MADAM: We have this day received advices, per West India mail, from St. Domingo, stating that John Latham, with three other men, deserted the Alabama, on the 25th January, at Kingston, Jamaica, and of course their allotment notes must be stopped.

We are, &c.

Per M. G. KLINGENDER,
C. F. VAN MELLE.

MARTHA LATHAM,
19 *Wellington street, Swansea, South Wales.*

Deposition of Thomas Wistinley.

I, Thomas Wistinley, of Liverpool, in the county of Lancashire, residing at 36 Jasper street, make oath and say: I am a cousin of John Latham. After he had joined the Alabama, in the summer of 1862, his wife, Martha Latham wrote me that Mr. Latham had sent home a part of his advance wages, and requested me to go to Frazer, Trenholm & Co., in Liverpool, and get it for her. I went to Fraser, Trenholm & Co.'s office either the last part of the month of August or the fore of September, 1862. I saw one of the men in the office. I presented him the note. It was for £5. I forget by whom it was signed. The man said, "Well, you are not Martha Latham, and this note is payable to her." I told him she lived at Swansea, and that she had written me to get it for her, and showed him her letter to me. He then said, if I would leave him the letter and note,

he would pay me. I consented to do this, and he paid me £5, which I remitted to Martha Latham, less the expense. The person who paid me, I was told by the other clerks in the office, was Fraser, Trenholm & Co.'s cashier. I left the note and letter with him.

THOMAS WISTINLEY.

Sworn and subscribed at Liverpool, January 6, 1864, before

J. PEARSON, A *Commissioner*, &c.

Mr. Seward to Mr. Adams.

No. 816.]

DEPARTMENT OF STATE,

Washington, January 15, 1864.

SIR: Your despatch of December 31 (No. 564) has been received and submitted to the President.

I thank you for calling my attention to the significant declaration, in a leading British journal, that, as for Great Britain, in regard to the two greatest risks and largest fields of danger, her securities are of a very opposite character—that she depends upon peace in Europe, and war in America: upon war in America, because it is only too probable that a restoration of the national authority here, upon any terms, would be immediately followed by what are described as “most preposterous” demands upon Great Britain.

That the policy which her Majesty's government have thought proper to pursue in regard to the insurrection existing in this country has resulted in producing many grave claims on behalf of our citizens is a fact which manifestly appears in the diplomatic records of both countries. That these claims are sustained here by a deep and pervading popular conviction of their justice is apparent to all who weigh, however carelessly, the daily utterances of the organs of public opinion. It is, indeed, a question of deep interest to both countries, whether this condition of things will generate, when our domestic peace shall have been restored, a policy of unreasonable and litigious exactions upon the British government. We may safely refer to our correspondence with her Majesty's government to prove that the government of the United States does not desire such disturbed relations as a consequence of our war, while, if it be not disrespectful, I may add, that we are satisfied that her Majesty's government sincerely deprecates it. I do not apprehend, therefore, that the British government will take or pursue the policy indicated in the quarter to which I have alluded, with a view to a prolongation of our civil war. That war has its evils and dangers for Great Britain, and for Europe, as well as for the United States, and for the American continent. Whatever errors or misconceptions may have heretofore prevailed in Europe in regard to the causes of the insurrection, and the freedom of this government from responsibility to the country and to mankind for its existence, and even for its duration, those errors and misapprehensions are now speedily clearing away, and it is daily becoming more apparent that the insurrection has derived its main support from European sympathies, and rests all its future hopes upon European aid and recognition. I may even go further, and say that the British realm and British provinces already are seen to be the bases of the naval war which the insurgents affect to wage against our country; and that British capital and British seamen are seen to constitute the chief resource and strength of the pretended belligerent. I should not distrust the ultimate judgment of the British nation in our favor, and against its own government, if that government should pursue henceforth a policy calculated to protract the unhappy contest. Nor will I do the government any more

than the nation so great a wrong as to believe that it could deliberately lend itself to any system of administration that would be calculated to injure or endanger the safety, peace, and welfare of a kindred and friendly nation.

The President has never failed to forecast the dangers of alienation between Great Britain and the United States, arising out of their civil war and surviving it; hence the earnestness of his increasing remonstrances against the concession of belligerent rights, and the continuance of that concession; hence his willingness to hear, and his promptness in seeking to adjust, the reasonable claims of British subjects, and meet the just expectations of her Majesty's government; hence the cheerfulness with which he has hastened to negotiate treaties designed to settle even difficulties which existed before the war, and to change early policies that favored discord between the two countries. It is his purpose to pursue this course to the end of his administration, and so far as it shall be possible, to impress upon the habitual policy of the government a friendly and even fraternal disposition towards Great Britain, so that the two nations may go on harmoniously together, favoring everywhere the development of just principles of free, responsible government, and the progress of a humane civilization, especially in Central and Southern America, and in the portions of the eastern world now being reopened to western commerce.

The pursuit of this policy is not unattended by many embarrassments. Nothing but military disasters, not now apprehended, could induce the American people to believe themselves incompetent to grapple with all the foreign dangers incident to the fullest assertion of their rights, and a full redress of their wrongs, while, like every other nation, they naturally view these rights and wrongs under the influence of self-esteem, perhaps not altogether free from prejudices disparaging to other nations; nevertheless, the policy is practicable, and may be successfully established. They are only superficial observers who assume that the United States are a litigious and contentious nation, and who reason from that assumption that, when they shall have gained the blessings of internal peace, they will be found impatient for aggressive foreign war. I know that we have such interpreters in our public press; but they reason from the excitement of the present hour, not from the normal temperament of the American people. We have a continent to bring forward to a higher state of development and civilization than even Europe and the United States have yet attained. We have need to extend throughout the world a foreign commerce, which is an inevitable outgrowth of our internal commerce. We have institutions of self-government to maintain. These are most effectually maintained by commending them to the favorable opinion of mankind, and they can be so commended by showing that, in their practical operation, they do not instigate violence either at home or abroad, but are conservative of law, order, and universal peace.

But it is manifestly needful to the success of the President's policy that a corresponding spirit shall direct the action of the British government during the period which shall intervene before our domestic peace is restored.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES F. ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 819.]

DEPARTMENT OF STATE,
Washington, January 18, 1864.

SIR: I have received your despatch of the 22d ultimo, No. 561, which relates to the alleged enlistments on the Kearsarge. It is not easy to discover the

points of difference between the consul's statements and the opposing ones to which Earl Russell refers. I can, therefore, only renew the instruction authorizing you to investigate the matter, and remove the consul, if he has offended, reporting the whole case to me.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES F. ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 820.]

DEPARTMENT OF STATE,
Washington, January 19, 1864.

SIR: I have received, and have submitted to the President, the very elaborate, logical, and earnest address which is signed Ed. Benort, grand master, and other officers of the Reformed Masonic Order of the reformed rite of Memphis, and I have to request you, in the President's name, to carry to those gentlemen his grateful acknowledgments for the unanswerable argument in behalf of the cause of the United States which they have produced in a form so very respectful and liberal towards himself.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES F. ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 579.]

LEGATION OF THE UNITED STATES,
London, January 21, 1864.

SIR: Despatches, numbered 796 to 800, inclusive, have been received at this office. Likewise copies of certain additional papers in the claim of Rufus Greene & Co. previously received with No. 792. Also a slip from a newspaper, in which are printed some of the letters intercepted in the steamer Ceres.

Finding by the transmission of two copies of the report of Mr. Mallory, as printed in the Washington Chronicle, that no doubt whatever seems to be entertained by you of the genuineness of that paper, I had no further hesitation in forwarding to Lord Russell the note already drawn by me last week. I send a copy of it herewith. You will perceive that it closely follows the text of your despatch No. 789. The chief variation is in the omission to allude to the reciprocity treaty.

The unsettled state of the Danish question, which is now brought to the verge of actual hostilities, and the uneasiness in the money market, have contributed greatly to draw off attention just now from American affairs. I think I perceive a good deal of actual change going on in the public sentiment. One of the symptoms of it may be found in the January number of the Edinburgh Review, which admits an article on the government policy in regard to emancipation as reasonable as could be desired. Indeed, the bearing of the war on the slave question is becoming less disputed. The pretence that the tariff has anything to do with it is quite exploded. In this connexion I feel it proper to call your attention to the report of the speech of Mr. Milner Gibson, at Ashton-under-Lyne, in the newspaper which I transmit. As an indication of the policy of the liberal section of the ministry it is encouraging. At the same time it is difficult to predict how far it may prevail in modifying the passive nature

of its position. Prosecutions have indeed been commenced, not only against certain parties at Liverpool, but against one of the principal officers in the dock-yard at Sheerness, for violations of the enlistment law. The case of Mr. Rumble was so thoroughly made out by the evidence I have presented that it could not indeed be neglected. All this shows signs of progress, though not to the extent which we might desire, or which will have the effect to break up the operations of the rebels and their friends in this kingdom. I have reason to believe that these are still carried on with great activity. They are now mainly directed to the outfit and manning of the vessels lying in France.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

EXTRA PARLIAMENTARY UTTERANCES.

THE RIGHT HON. T. M. GIBSON.

[By electric telegraph.]

The Right Hon. T. M. Gibson, president of the Board of Trade, addressed a crowded meeting of his constituents last evening, at Ashton-under-Lyne town hall; the mayor presided.

Mr. Gibson, who was received with loud cheering, said: Mr. Mayor and gentlemen, I have sometimes seen it stated in the public journals that, at the present moment, when there is no active contest between the great political parties or the country upon any stirring question of domestic interest, it is difficult for one speaking upon public affairs much to interest his audience; and I must say, that if there be any truth in that, I feel that it requires a much better orator than I can ever pretend to be to make anything but a dull speech. I am afraid your worthy mayor has given rise to expectations which I shall be unable to fulfil, if he tells you that I can either instruct or edify; for it is my belief that instruction and edification must in these days come from constituents to members, and will not be conveyed by members to those whom they represent. ["Hear, hear," and cheers.] However, there is one duty which obviously devolves upon me—to present myself in public to my constituents, to pay to them my personal respects, and to thank them for the confidence which they have hitherto reposed in me. I think that meetings such as this are salutary, and that they are useful, more especially so in a great and populous constituency like that of Ashton-under-Lyne, where the relation between a member and his constituents is more real, and where the representation is more free, than in many parts of this kingdom, which it would be difficult for me to point out. [Hear, hear.] When last I had the honor of addressing this constituency, some months since, there existed a condition of great suffering among the operative and other classes, and the future was dark and gloomy. At the present moment suffering to a great extent still exists, but I think I may say, in the presence of those better informed than I am, that the future at no distant period promises to be better; that there is blue sky appearing in the clouds, and that, although there may not be any immediate amelioration in this particular union of Ashton-under-Lyne such as you could desire, filled as it is for the most part—I speak of those who are out of employment—with cotton operatives, suffering probably from the absence of adequate supplies of cotton; yet from all the information I can get, and I have consulted those most competent to advise me, I think we may look forward to an approaching period of reviving prosperity in the cotton

trade of this district. [Hear, hear.] I judge so from the returns of last year, the imports of cotton from India, from Egypt, and from other countries having very materially increased, showing a tendency to make us almost, if not altogether, independent; for probably it will be long before we arrive at the state of affairs of American supplies. Still, to a great extent, this increase will make up that large deficiency in the supply of the raw material of your industry which has been occasioned by the American war. [Hear.] But, sir, speaking of the distress that has prevailed in this district, I will undertake to say that the history of the world does not afford such an example of such a bitter trial having been borne with so much fortitude, and having been got through, as it were, with so much smoothness. I remember the attacks, at the outset, upon the manufacturers and others; and I would ask now, after the long period of distress which has existed, has this locality done its duty or has it not? The county of Lancaster, I believe, has subscribed as much as the whole of the United Kingdom. The management of these great difficulties has been mainly in the hands of local authorities. The distress has been grappled with, not by the state, but by the local authorities; and when we read advertised in the newspapers the large subscriptions received from various parts of the United Kingdom, we must not forget that there has been an amount of aid in published contributions in this district of which, perhaps, the world at large are little aware, and from which, if we could get an accurate account, we should form a more just estimate of the suffering and the difficulties that had to be encountered, as well as of the beneficence with which they had been met. Now, it is the fashion to say the country is prosperous; and what does it signify? We were always told that the cotton industry was the main foundation of England's prosperity, and now we see that industry almost prostrate, and yet there is considerable trade, gradually increasing exports, and much prosperity in various parts of the kingdom. Now, though I am obliged constantly to make use of statistics, I am not an entire believer that figures give you the full truth. In these respects, of the condition of the country, I do not believe it possible that this country can be so wealthy, or that there can be so much happiness among the masses of the people as there would have been if this great American war had not taken place, and as if there had not been this prostration of your great cotton manufacture. I have heard it said, "It is an advantage to England that this blow should have fallen upon the United States of America," as if a nation prospered by the downfall of neighboring countries. [Hear, hear.] I hold no such opinion. [Hear, hear.] I believe that the nations of the world are like the individuals in a particular nation, that they are dependent upon each other for their prosperity and their happiness, and that if there be a great destruction of wealth in any one nation, the common stock is thus invaded, and there is less to be distributed by the channels of commerce through other countries of the world; therefore I believe that this and other countries of Europe must, of necessity, share in the losses that have arisen from that desperate civil strife that has prevailed in the United States, but there are undoubtedly signs of progress in our trade that are worth mentioning. Take the shipping interest. We used to be told that free trade in shipping (the power to employ the foreign ships as well as the English ships) would be damaging to British navigation; but what is the case? We find that the tonnage of British ships entering in and clearing out with cargoes in the United Kingdom has increased in the present year to an amount of something like 14,000,000 tons and upwards, against 7,000,000 tons of foreign shipping, thus showing that, with a great increase altogether, British shipping has kept gradually in advance of foreign shipping in the trade with the United Kingdom. But it would not be fair to take credit for this improvement in shipping as due to any policy in this country. I am afraid that some of it is due to the transference of the carrying trade from American ships to British ships; and why this transference from American ships to British ships?

No doubt partly in consequence of the war that prevails in America. There may not be the same power in manning and fitting out merchant vessels, but I am afraid there is something more than that: there is the fear among the American merchant shipping of attacks by certain armed vessels that are careering over the ocean, and which are burning and destroying all the United States' merchant ships which they find upon the high seas. The fear, therefore, of destruction by these cruisers has caused a large transfer of American carrying to British ships. Now, the decrease in the employment of American shipping is very great. In the trade between England and the United States it is something like 46 or 47 per cent. I mention these facts to show you it is right that the attention of this great commercial nation should be seriously turned to those laws which govern the action of belligerents upon the high seas. [Hear, hear.] For if some two or three armed steamers which a country with no pretensions to a navy can easily send upon the ocean armed with their one or two guns can almost clear the seas of the merchant shipping of a particular nation, what might happen to this country with her extensive commerce over the seas if she went to war with some nation that availed herself of the use of a similar description of vessels. [Hear, hear.] Why, the whole system of maritime warfare is altered by the introduction of steam, and these fast steamers cannot be overtaken by the most powerful navies. The sea is a very broad place, and they can roam about for there is no saying how long, capturing and destroying commerce, and it is not in the power of navies to prevent them. Well, if it be so, is it not rendered worse if neutral nations are to supply such vessels to belligerents? [Hear, hear.] We might with our great navy, for instance, if we were at war with some country, blockade its ports, and we might prevent vessels from sailing forth from its harbors; but if that nation with whom we were at war is to be at liberty to go to some distant region, some country friendly to ourselves, and there be furnished with these armed privateers to cruise about the ocean, I should like to know what possible protection the great navy of England, and the great expenditure upon which it rests, will be able to give to the commerce of this country; [hear, and cheers;] and therefore the government have seen, not only in an international point of view, the great evils of neutrals furnishing ships-of-war to belligerents as a principle, and contrary to the general good understanding among countries—feeling this, and also the still more paramount consideration that it is vital to the interests of England that this fitting out of vessels in countries not themselves engaged in the warfare should be prevented, they have taken a course which the laws of this country have required from them; they have endeavored, to the best of their ability, to put the laws of this country in force against those who are engaged in supplying the so-called Confederate States of America with those vessels to cruise against the commerce of the United States, a nation with whom, at this present moment, we are on terms of friendly alliance. [Cheers.] I don't know whether any gentleman here has taken the trouble to read the legal arguments upon this question; but really I confess, for one, that I am unable to understand much of what has been said upon the subject. I am told that you may sail a fleet of ships through the foreign enlistment act. It may be so; but I will undertake to say that I will sail another fleet of ships through the construction which any one of the lawyers has hitherto put upon that act. [Laughter and cheers.] Common sense tells me that the confederate government are the parties who have, directly or indirectly, caused these ships to be built in this country, and that in so doing they entered upon a deliberate course of violating and evading the laws of England. ["Hear," and loud cheers.] I am no lawyer, but that is my construction, [hear, hear.] and I do not think you can sail a fleet of ships through that. [Cheers and laughter.] I have touched upon this question of shipping, not so much for the purpose of calling your attention to the fact, with which I dare say you are familiar, of the

great increase of our shipping, but to point out that it is a subject that well deserves the grave consideration of every commercial constituency. [Hear.] With regard to the expectations of the country, it is a remarkable fact that the exports during the eleven months of the year which has just expired (we have not the tables complete for the whole eleven months) show in point of value the largest exports on record in this kingdom; but, as I am sure it must occur to every gentleman present there is a little delusion here, there may have been an increased value without an increased quantity, and therefore without a corresponding employment of the operative classes. [Hear.] I believe that to be true to some extent, but not entirely true, for that there is a considerable increase in the actual quantities of some articles exported from this country. The total value of the exports for the eleven months amount to £132,000,000. The largest amount, I believe, on record for a period of eleven months in the history of the country. In 1862 it was £113,000,000 for the eleven months; in 1861, £115,000,000, and so forth, showing that there has been a very considerable recent increase; and it is remarkable that, although our imports of raw cotton have been so small, and therefore the amount of the cotton manufactured correspondingly diminished, yet the proportion of the value of the total exports of cotton to the whole was thirty-two per cent. in 1863, and only thirty-eight per cent. in 1860, before the cotton trade was so seriously impaired. There has been an increasing quantity in some goods no doubt, particularly arising from the fact of the substitution of the linen and woollen for cotton. I find that of linen yarns and manufacture they have increased in quantity twenty-one per cent. and twenty-six per cent. for the eleven months; of iron and steel, fifteen per cent.; of woollen and worsted yarn, seventeen per cent. I merely mention this to show you that, although it is true in the main, no doubt, that the total declared value of all exports become so large from the greatly increased price of some particular goods, yet in some trades there is not only an increase in value in the exports, but also an increase in the quantity; and I am glad to find a growing increase in the trade with those countries with which we might expect improvement. I take Italy, where it is to be hoped more free institutions and a more liberal system of government will give greater scope to commerce, and I find an increase in the nine months of last year, compared with the nine months of 1860, from £3,106,000 to £4,411,000, [hear, hear,] in consequence mainly of the treaty with France; and I will never mention that treaty without asserting positively that the country is mainly and almost entirely indebted for it to the exertions of my honorable friend, Mr. Cobden. [Loud cheers.] It is not ancient and orthodox diplomacy that succeeded in breaking the ice in France, and, for the first time, induced the French government to turn a favorable view upon the policy of free trade. [Hear, hear.] Well, we have got from 1860 to 1863, during the nine months, (unfortunately I have not got the twelve months' returns,) an increase from £3,656,000 of exports to £6,573,000. With Egypt we have a considerable increase. With the United States we had gone up, since 1861, when the exports had fallen down to £6,802,000 in the nine months, during the nine months of 1863 to the amount of £10,492,000, showing the tendency there is for a great extension of trade with the United States. Now, we have got something still to look forward to, for you must bear in mind that we have not got the benefit of the French treaty. On the 1st of October, 1864, there will take place important reductions of import duties in the French and Belgium tariffs. In France there will be a considerable reduction upon iron and other materials, woollen and jute tissues, chemicals, earthenware, and paper. In Belgium there will be a reduction upon similar articles, and cotton, linen, and woollen yarns; therefore, whatever increase in trade we have hitherto had in consequence of these excellent commercial arrangements which have been made by this government with France and Belgium, we shall, we hope, derive increased benefits when the future reduction of duties takes effect. Before I have done with commercial

questions, I must take leave to make one or two respectful observations with reference to the proceedings of a body of men which have lately taken place in Manchester—I mean the proceedings of the paper-makers. I have the greatest possible respect for that important trade. I think the men connected with it are an example of everything that is most respectable in the manufacturing classes of England, and I should be extremely sorry to see any policy persisted in which, unless the claims of justice seem paramount for taking an opposite course, had the effect of depressing the paper manufacturers to a state of difficulty. One of the main objects of the repeal of the paper duty was to give scope and freedom to the press. It was not the only object, because there were commercial objects of high importance; but it was felt that an artificial enhancement of the price of paper was an obstacle in the way of the extension of the cheap press of this country, and it was felt at the same time that, with such institutions as we have in England, institutions which we hope to improve, nothing is so vital for the mental, moral, and intellectual welfare of the people as the diffusion of knowledge, political and all other knowledge, by a cheap and a good press. [Applause.] That press is beginning to develop itself; it is not what it will be. With the progress of education in this country you will have a larger press, growing with the taste for reading and information that must follow the general spread of instruction. But so far as the paper duties were concerned, I thought, for one, that we should never have revived that question; but it seems that paper-makers met in conference at Manchester the other day, and they passed resolutions to the effect that they were suffering in their trade, and that the legislature were bound to give them relief. I think, with all respect to these gentlemen, that the day is past for the imposition of any protecting duties to raise the price of any production of native industry. [Applause.] All classes have been subjected to competition—the farmer, the manufacturer, the tradesman; and the paper-maker must fall in with the rest, and by his enterprise and his exertion he must overcome the difficulties which he may have to encounter; and I am one of those who prognosticate most confidently that those difficulties will be overcome, and that the paper manufacture of England will be one of the greatest and most prosperous industries. Why do I say this? I find that our friends, the paper-makers, can manage to export a good deal of paper to foreign countries, and sell that paper in foreign countries in competition with foreign-made paper, and that this is an increasing trade. I don't understand why. If we can export paper and sell it at a profit in the market of the world, we need not be afraid of the competition of the foreign paper-maker in our own market. In 1863 there were imported of paper, for consumption, 112,503 cwt., and exported out of the country 13,000 cwt.; so that, in point of fact, in round numbers, there were 100,000 cwt. of foreign paper for printing or writing purposes imported for consumption in the United Kingdom in the eleven months of 1863. Well, how much was there exported of British-made printing and writing paper during the same period? Why, 103,974 cwt.; so that the paper-makers had, at any rate, the advantage themselves of selling in foreign countries a large amount of British-made paper. Well, then, where does the ruin come from? There is a larger amount of paper made in this country than ever before, and I believe the whole imports form a very inconsiderable percentage of the paper consumption of British manufacture in the United Kingdom. The value of British paper of all kinds (except hangings) exported for the eleven months of 1863 was £511,737; in 1862, the value was £411,776; in 1861, the value was £327,986, showing, under the operation of free trade in paper, a gradual increase in the production of paper in this country for exportation. The importation of rags has also increased. In 1863 there were imported 34,746 tons of rags, against 18,084 tons in 1862. These facts I should like to have explained, because it appears to me totally inconsistent with the allegation that good trade is depressed and going to

ruin to find increased production for home consumption, accompanied at the same time with increased production for foreign exportation. Our worthy chairman alluded to this American war. I do not know whether I should say a word upon the subject. Very likely, if I were to avoid it altogether, and say it was a foreign question, and that with it we have nothing to do, I should be charged with having some reason for the reserve, and with being unwilling to state frankly the faith that is in me. [Applause.] Now, when I am before my constituents, I feel as if I am a little bit out of harness. We meet together as friends, and I just speak my own opinions, and very likely I am not experiencing the amount of reserve becoming an official; but, however, I will avoid saying anything I ought not to say [laughter and applause,] because I feel, and I beg you clearly to understand, that what I say with regard to these matters are my individual opinions, consistent with the general principles of the cabinet to which I belong. But in all governments, as under all circumstances in which men are placed, there are certain moderate diversities; some go in one direction rather further than others; but, provided there be an agreement in general principles, the questions of degree are not such as ought to prevent men from acting together for the benefit of their country. [Cheers.] With regard to the American question, the government officially is strictly neutral; their policy has been to do nothing and to say nothing as a government that should favor the views of either of the contending parties. I think generally that policy of neutrality has been approved by the country. We have been urged to recognize the south, to take steps to bring about a cessation of the blockade, not recently, but formerly, and it is a circumstance which I cannot pass without observation, that the people in this part of the United Kingdom, whose own interests would appear the most likely to be promoted by putting an end to the blockade, have most desired that our policy should be guided by justice and good feeling, with a fair allowance for the enormous difficulties which the government of the United States have had to encounter. [Cheers.] These urgings about America have not come from the cotton districts. I suppose it is found out by this time that the cotton districts have souls and intellects, and the power of appreciating what is just and right in our national policy, and are not prepared to recommend that this country should take an unworthy course for promoting the pecuniary interests of the class to which they belong. [Loud cheering.] I am one of those who think that at the commencement of this American war many persons too hastily formed the opinion that it was impossible the Union could be restored. The common saying was, in many parts of the country with which I am acquainted, "There is one thing certain—that, whatever else happens, the Union cannot be restored." I never came to that conclusion. [Hear.] I do not know whether it will be restored. I can't look into futurity, but I cannot go the length of seeing so clearly before as some, and showing that it is impossible the Union should be restored. When the southern leaders took up arms—for be it remembered they commenced this war ["hear," and cheers]—it was a war of aggression on their part—when they took up arms for the purpose of compelling the government of the United States to acquiesce in breaking up the integrity of the country, I always felt that the south had undertaken a task which it would be difficult to accomplish. Nothing short of something like such a conquest of the north as would compel them to lay down their arms in despair was likely to induce the government of that country to agree to separate in the way which was proposed. But when I am told by the southern leaders that their object in taking up arms was not merely the enjoyment of their own independence, but the establishing of a model slave republic, which should perpetuate the institution of slavery, and hold it up as an institution which should be cherished, and not condemned, I then said to myself, if these men are right, and are going to succeed in establishing these principles as foundation-stones of a new empire, what have we been

about for years and years in preaching and teaching that slavery is a curse, and that it is the greatest degradation that can fall upon a country? What! Have we been endeavoring to inoculate every country with which we have come in contact with our ideas as to the necessity of abolishing the slave trade, and therefore I say slavery also; because if slavery is right, then the slave trade is not wrong? Well, if the southern States of America are right in endeavoring by force of arms to establish this model slave republic, then, I say, we have all been previously in the dark; we have been poor-benighted beings that have lost sight, or have not been aware of the great truth which Mr. Stephens and others have taught in the southern States of America, that the normal condition of the negro, his only proper, natural condition in the world is that of shame. But, as we are told by this same gentleman, Mr. Stephens, that this government of the Confederate States which is about to be established will be the first government in the history of the world that is giving the lie, as it were, to all the canting policy which has been supported by England and other countries against slave institutions; if this be the state of affairs, can I as an Englishman wish or hope for success to such a cause? I sympathize with nations struggling for independence, but that is not the question here. [Hear, hear.] No man has alleged a grievance in the southern States, except the growing sentiment of the north against the institution of slavery. No man has said that in the south any right has been withheld, or that any wrong has been without a remedy, and, in fact, Mr. Jefferson Davis himself has lauded the institutions of the country in reference to the past; but has only said that in the future he sees looming that growing sentiment which will endanger the slave institutions of the south, and which must continue to embitter the relations between the north and the south if it went on, and that therefore it was better to separate. Well, I believe myself that one end of this great civil war in America, that one termination, at any rate, will be the abolition of slavery. [Cheers.] My honorable and respected friend, Mr. Bright, [loud cheers,] is often charged with wanting to introduce American institutions into England. Well, I say with regard to this American war, the south rebelled and raised this insurrection because they foresaw that an English institution, viz., the emancipation of the slave, was about to be introduced into their country. It was the resistance to this policy of ours—to the policy of England of all other countries in the world—that gave rise to this great insurrection. [Hear, hear.] We are told sometimes that tariff questions had something to do with it. Disabuse your mind entirely of that idea. I assert, and if there were time I could prove to you by the clearest demonstration, that tariff questions had nothing on earth to do with the quarrel between north and south. Why, the south was never united upon the question of free trade, the south never held one opinion upon the question of protective duties. On the contrary, Louisiana was for protecting her sugar, and other States of the south were for protecting their produce; but as for its having anything to do with the form of government—why, if America had been a monarchy, if it had been an empire like France when these two great sentiments, freedom of labor on the one side and slavery on the other, came into collision on the scale on which they exist in America, what would have been the certain consequences? Why, we did not find it so easy to emancipate our slaves in England. We had some trouble. We paid £20,000,000 and we had a long, eager agitation, in which there was much embittered feeling, and my firm belief is, that if the slave party in England had borne the same proportion to the rest of the community when emancipation was demanded in this country which they bore in the United States at the commencement of the civil war, it is very probable you would not have been able to get through your emancipation in this country without a resort to arms, or perhaps to the secession of your slave countries to some other slave country, where there would have been a greater affinity to themselves. [Hear.] Now, it is remark-

able what is going on at the present moment in the north, notwithstanding this tremendous pressure upon their resources, which no doubt will raise a very large debt, but which debt I believe that country will, with its growing population and its vast means, be enabled to bear. I have got in my hand a report of the Commissioner of Agriculture in the United States for the last year, and I find that in 1862 there were grown in that country 169,993,500 bushels of wheat. I find, in 1863, that that quantity has increased to 191,068,239 bushels. I find that nearly all articles of agricultural produce have increased considerably, even during this war, and notwithstanding the fact that no less than a million of men employed in the army and navy have been withdrawn chiefly from the agricultural producing classes, notwithstanding we see this remarkable statement. Perhaps emigration may in some measure account for it, for I find that large numbers of adventurers from every part of Europe are still crowding the shores of the United States. I find that the Commissioner says that, "While some, as adventurers, seek the western world for military fame, stimulated by our large bounties and chance of promotion to fight sincerely the battles of freedom and equality, the greater part come to labor, to enjoy independence and quiet, and to make happy the humble homes for themselves and their children. According to the report of the New York commissioners of emigration, the number of emigrants arriving at that port was 146,519, against 67,307 during 1862. This proportionate increase holds good in respect to the other great ports of our country, and independent of the large number of persons from Canada for portions of America." I will read only one small passage more of the Commissioner's report, because if I were to go on at any length I should read some opinions which would be held to be unpalatable in certain quarters. [Laughter.] I shall confine myself to one passage in which he wishes to indicate some of the causes which have led to this great immigration, at this particular time, to the United States. He says, to an intelligent mind, and especially to every American, the causes of this influx of foreign population, even during a period of war, are very evident and gratifying. I shall simply indicate some of them without discussing them at length. In the first place, the present rebellion is being understood abroad in its true light, as a revolt against democracy, the rights of labor, and human nature, and that the triumph of the government guarantees to immigration its great reward of peace, prosperity, and freedom. [Cheers.] I hope I may be forgiven for speaking out so much on this question, but I could not disguise my feelings, and I think the contest has arrived at a stage when we should frankly express our views and interchange our ideas. [Hear, hear.] I will next touch briefly on some questions of domestic reform. No doubt I ought to do so; I ought to say a great deal on reform. [Hear, hear.] I shall be asked what has become of the reform bill? is it put in a pigeon-hole, never to be taken down again until it is covered inches deep with dust? [Laughter and applause.] I would say the reform bill, when brought forward, was a question which had neither friends nor foes. [Applause.] It was smothered with kindness; everybody was a reformer. Lord Derby proposed a considerable reduction of the county franchise, and said, "Go to £10 in the counties." Mr. Disraeli thought the borough franchise ought also to be extended, and if so, effectually, and that the promise should be kept in the spirit as well as in the letter. The government brought in a reform bill proposing a £10 franchise in counties and £6 in boroughs, but that bill was completely talked out of existence. What was the cause? I think it would not have been in the power of any government to withdraw a bill of such importance after it had been laid on the table of the House, unless they found on the part of the country and the House of Commons indifferent and lukewarm support. [Hear.] My opinion remains unchanged. I think it is a mistake to postpone the question of reform. I believe that England's greatness, happiness, and prosperity have rested upon the fact that our reforms have been progressive and gradual,

not effected by sudden and extensive leaps. If the reform bill were put off till an indefinite period, a reform may then be asked, and have to be granted, which will not then receive the sanction of parties that would now support a useful measure of reform. It would be useful for a government, if backed by the country, to bring forward, at no distant day, a measure of reform which would extend the franchise to a large number of the working classes, and thus place the institutions of the country on a broader and surer foundation. [Applause.] These are no new opinions; they have been expressed by the leaders of both parties in the House of Commons. All parties are committed to reform, and none wish it to be understood that they have abandoned those opinions upon which the present government was brought into power and the present Parliament elected. All say, "Bring on reform at a convenient season." However, who is to say when it is convenient? I say that the constituencies, the country, must answer the question. Reform, political reform, was never made a free gift to any people, and yet was never granted by any governing body or Parliament, except at the demand of the country and in accordance with public opinion. The laws of England have never anticipated public opinion, and I hope will never do so. A reform must be such as public feeling can support and co-operate with; and, being so, nothing would have a greater tendency to sweeten the political atmosphere and to increase the general confidence of all classes throughout the country. [Applause.] I am precisely where I was. I have already expressed my views on the question of votes by ballot, upon which I am also where I was. I believe you cannot have a genuine vote from a constituent body, whatever that constituent body may be, if you impose as a restriction on the voter that his vote shall be published. Unless you give the voter power to vote by ballot if he sees fit, you cannot secure that the electoral body will give expression to its pure and genuine opinion. There may be countries in which the classes are so equal in social position—there may be circumstances in which the ballot is rendered a question of no moment; but I believe there was never a country of our social feelings, our sense of caste, our aristocratic predilections, our gradations of wealth and poverty—there never was a country in the world which requires for the eliciting of the genuine vote of a constituent body the power of secret voting so much as England. [Cheers.] [A voice, "Denmark," laughter and cheers. Another voice, "Ay, that's it." Mr. Gibson. Well, I am asked to say a word about Denmark. [Cheers.] One of our eminent statesmen on the conservative side said that the Danish question, or rather the Schleswig-Holstein question, was one which few had studied and which none understood. [Laughter.] I confess my studies have not been very diligent in regard to the Schleswig-Holstein question, but I do not know that anybody who is not a German professor is expected to be able to explain all the refinements of German law, and all the difficulties which surround the question of succession to the two duchies of Schleswig and Holstein; but it appears to me that this is a question which ought to be settled without fighting. [Cheers.] I remember that when the congress of Paris met after the Russian war, which congress was attended by delegates from all the chief powers of Europe, I think my Lord Clarendon, very much to his honor, moved a resolution, which was supported cordially by the French representative, to the effect that for the future it was very much to be desired that when questions arose between the different countries in Europe—questions of dispute—that it was very much to be wished that, before having recourse to arms, the offices of some friendly power, by way of a mediator, should be invited. I have not the resolution before me, but it comes to this, "Try if you cannot settle the difficulties in future in Europe which may arise, and which are sure to arise, by reference to some third party before you resort to arms." Well, I think that was a very sensible resolution, and I wish they could see their way to act upon it in this Danish Schleswig-Holstein question. [Cheers.] All I know as regards the

policy of this government is, that the object they have had in view in any advice that they may have given, or any moral influence that they may have attempted to exercise, their object has been to promote faith to engagements, whether on one side or on the other; to promote justice, and also to secure peace. [Loud cheers.] But beyond telling you that the question is one which I hope may not give rise to war between any powers of Europe, beyond telling you that it is impossible for me to form any opinion as to what may be the ultimate views of Prussia, or Austria, or Denmark, on this matter, I know not the grounds upon which they are prepared to settle the question. Our obligation is a very limited one in the matter, and merely relates to the succession. [Hear, hear.] We, no doubt, are parties to the treaty in 1852, which attempted to settle the question of succession of Holstein and Schleswig to the crown of Denmark. Beyond that I should rather avoid saying anything, for fear I should mislead. [A laugh.] I fear that at the present moment the question is in a very peculiar position, all hoping for peace everywhere in respect to it. Still, it looks dark and threatening; and if we express any confident opinion, perhaps we should be only misleading; [hear, hear;] but my earnest desire is, that it may be settled by some kind of conference or arbitration rather than having recourse to arms, which only settles who is the strongest, and very often leaves unsettled who is in the right and who has justice on their side. [Cheers.] I thank you once more for your kindness. You have heard me with great indulgence. I have told you that my opinions upon reform are where they were. I know that official men are supposed to part with their first loves and to form new connexions. I have not done that yet, [cheers,] and I mean upon every occasion when it is in my power to do so to promote those views which gained me favor in the first instance with this constituency—reform, religious equality, extension of education, freedom of vote—I mean vote by ballot—extension of the franchise. [A voice, "Retrenchment!" laughter.] My honorable friend says "retrenchment," so say I. [Cheers.] I am for retrenchment. I am sorry to say I don't think the House of Commons is for retrenchment. It is very popular is a large expenditure, and very difficult for a government to reduce expenditure if the income shows that there is more money able to be spent. There are always excuses rising up from one of the services or the other, and demands are made for increased expenditure, which it is exceedingly difficult for the chancellor of the exchequer—than whom, I assure you, there is no man more inclined for economy—to resist. During the last few years there has been a considerable reduction of expenditure. My belief is, that your expenditure may be reduced below what it is at present without impairing the value of your establishments; [cheers;] and I think if her Majesty's present government are permitted much longer to carry on public affairs, in all probability there will be reductions, following that course of reduction which has taken place during the last two years; and now, gentlemen, if there are any questions which you may wish to address to me I shall be most happy to answer them. I perhaps could better discharge my duty to my constituents by putting the matter before them in that light than I could by commencing to dilate upon some subject in which they cannot take a particular interest.

The right honorable gentleman, after repeating the expression of his readiness to answer any inquiries from his constituents, sat down amid hearty cheering.

A hearty vote of thanks was given to Mr. Gibson, and a similar compliment to the mayor closed the proceedings.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,
London, January 19, 1864.

MY LORD: I have the honor to submit to your consideration a copy of what purports to be the annual report of Mr. S. R. Mallory, the person who is known to be officiating at Richmond as director of the naval operations of the insurgents in the United States. Although this paper has been received only in the form here presented, I entertain little doubt that, in substance, it may be relied on as authentic.

If this be once assumed, I am sure I need not point out to your lordship the great importance of the admissions therein made of the systematic violation of the neutrality of her Majesty's kingdom, which it has for a length of time been my chief labor to make apparent. This report boldly assumes the responsibility for the action, both in Great Britain and France, in the construction and outfit of powerful war vessels in their ports for the use of the insurgents in carrying on war from those countries against the United States. In this particular there can be found little or nothing in the allegations made by me in the notes which I have heretofore had the honor to address to you on this subject, however strong their language, that is not fully sustained by this paper.

Furthermore, there appears to be an avowal with similar frankness of the expediting of twenty-seven so-called commissioned officers and forty trustworthy petty officers from Richmond to the British provinces, with orders to organize an expedition from thence, in co-operation with so-called army officers, to make war on the northern adjoining border of the United States. Of the fact that such an enterprise was actually undertaken your lordship is already well apprised. This paper does not hesitate to confess that, although so cunningly contrived to operate from a known neutral territory as a base, it has failed because the British provincial authorities gave information to the government of the United States in season to render it abortive.

Lastly. In connexion with these two explicit avowals, the same authority announces that another courier has been despatched with instructions which will shortly be made apparent to the enemy nearer home, which declaration, construed by later events, may be fairly understood to allude to the directions under which the persons employed to perpetrate the piracy and murder committed on board of the steamer Chesapeake proceeded in that enterprise, making the British provinces of New Brunswick and Nova Scotia the base of their criminal operations to and fro.

In laying this information before your lordship, I am directed to convey the opinion of my government that the proof thus furnished is sufficient to remove all doubt that may as yet be lingering over the objects, character, and designs of the builders of the steam-rams, now under detention in the ports of this kingdom, upon the strength of former representations which I have had the honor to make to her Majesty's government.

Secondly. Whilst readily acknowledging on the part of my government the friendly services of the British provincial authorities in the case referred to, I am instructed to solicit your lordship's attention to the fact that a toleration within this kingdom or any of its dependencies of the practices of the insurgents, since they have been so openly published to the world, and after the knowledge of them now communicated, would be not simply inconsistent with neutrality, but equivalent to a permission to the enemies of the United States to make war against them from the British shores.

Thirdly. I am further directed, respectfully, to represent that the toleration of these armed enemies of the United States, whilst known to be carrying on these hostile practices, now fully revealed within the British realm and its de-

pendencies, without restraint of any kind, cannot be regarded as an exercise of the unquestioned right of sheltering political exiles, but rather as equivalent to permitting them to abuse that right for the purpose of more effectually availing themselves of British aid and co-operation, now notoriously given them, in waging war with a country with which Great Britain is at peace.

Fourthly. It is the deliberate conviction of my government that there has been and continues to be in all these proceedings a fixed purpose to plunge Great Britain into a war with the United States, in order to extricate the conspirators from the perilous embarrassments in which they have involved themselves. The tendency to produce that evil is so obvious that it would seem to call for the strongest and most persevering efforts of both countries to prevent it.

Fifthly. It has been the desire of my government, under the constant pressure of these annoyances which have so materially contributed to procrastinate the painful struggle, to bear itself in the spirit and in the manner best calculated to defeat this wicked design, without giving cause of offence or irritation to her Majesty's government or to the British people.

The President sincerely wishes that he could suggest any adequate remedy for the deplorable state of things thus presented that is not inconsistent with the policy which Great Britain has pursued in regard to this insurrection. It must ever be his opinion that it has directly resulted, although unexpectedly and unintentionally on the part of her Majesty's government, from the earliest steps taken in that policy. The speedy recognition of the insurgents at a moment when they were without navy, ports, courts, or coasts as a belligerent power on the ocean, was unquestionably construed by them, and ill-disposed British subjects conspiring with them, as an invitation to use British ports, ships, men, money, and coasts, so as to make themselves the naval power which they never could by any possibility become from their own unaided resources.

Indications of active co-operation in the designs of the insurgents have been all along but too painfully apparent in British communities. The evidences have already constituted a large part of the correspondence which I have had the honor to conduct with your lordship since the day of my arrival. And much more that I have been unable to put into official form has not escaped my observation. None of these movements, however, are likely to assume so dangerous a character as those which are perceived to originate, or to be encouraged, in territories coterminous with those of the United States, where the opportunities abound for aggressive and injurious acts, and the temptation as well as the power to retaliate is correspondingly strong. It must be manifest that this danger is one which my government can do no more to avert than it has already done. If it is to be prevented at all, it would seem that a resort to some measures of greater stringency than have as yet been taken is necessary on the part of her Majesty's government.

In making in the most respectful manner these frank explanations of the difficulties under which the respective countries at present labor, I pray your lordship to believe that my government is desirous to act in a spirit of perfect friendliness, and with an earnest desire to confirm the most cordial relations between them. Having acquitted myself of the duty with which I have been charged, I propose for the present most respectfully to leave the whole subject to your lordship's just consideration.

I pray your lordship to accept the assurances of the highest consideration with which I have the honor to be, my lord, your most obedient servant,

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 580.]

LEGATION OF THE UNITED STATES,
London, January 21, 1864.

SIR: The eccentricities of the rebels are among the most marked peculiarities of this war. It seems that they undertake to issue naturalization papers to aliens on board of vessels which have never yet themselves been able to get within their jurisdiction. I transmit a copy of my note to Lord Russell relating to this subject, and covering copies of two such papers, the originals of which are now in the hands of Mr. Dudley, the consul at Liverpool.

How long the British government will continue to put up with such things it is difficult to tell. Made daily more sensible of the difficulties into which their early measures have plunged them, they are still reluctant to take any step which indicates the slightest admission that they were wrong.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,
London, January 20, 1864.

MY LORD: I have the honor to submit to your consideration copies of two papers, the originals of which are in the possession of the consul of the United States at Liverpool.

It would seem by these papers as if the so-called naval officers of the insurgents in the United States assume to themselves the power on the ocean, not only as in former cases to constitute a court of admiralty on the quarter-deck for the condemnation of prizes, but also to naturalize the subjects of foreign subjects at sea, without the necessity of prior emigration or settlement in any vicinage.

I pray your lordship to accept the assurances, &c., &c.,

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c., &c.

Certificate of citizenship in favor of Frank Glassbrook, a free white man, twenty-four years of age.

To all whom it may concern:

Know all men by these presents that I, William L. Maury, a first lieutenant in the navy of the Confederate States of America and captain of the armed steamer Georgia, a vessel-of-war belonging to said States, do hereby, and by virtue of authority in me vested by an act entitled an "Act to establish a uniform rule of naturalization for persons enlisted in the armies of the Confederate States of America," do issue this my certificate in favor of Frank Glassbrook, a free white native of England, and now a seaman on board this vessel, and in the naval service of the Confederate States of America aforesaid, whereby the said Frank Glassbrook, having of his own free will, at the age of twenty-four years, enlisted in the naval service aforesaid, and taken the oath of allegiance to

the said States, is made a *natural* citizen thereof, and invested with all the responsibilities, duties, obligations, and *privileges* that are by law attached to every naturalized citizen of the Confederate States of America.

Done at sea, on board the confederate steamer Georgia, this 27th day of April, in the year of our Lord, 1863.

In testimony whereof I herewith affix my hand and seal.

WILLIAM L. MAURY, [L. s.]

First Lieut., Com'dg Confederate States Steamer Georgia.

Mr. Adams to Mr. Seward.

No. 581.]

LEGATION OF THE UNITED STATES,

London, January 22, 1864.

SIR: I have the honor to transmit a copy of my note to Lord Russell, of the 20th instant based upon your despatch, No. 792, of the 28th December last, and claiming indemnity for the capture of the bark Sea Bride and her cargo.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

LEGATION OF THE UNITED STATES,

London, January 20, 1864.

MY LORD: I have the honor to submit to your lordship's consideration copies of certain papers relating to the case of the bark Sea Bride, of Boston, captured by the Alabama.

It is affirmed in the depositions making a part of these papers that the Sea Bride was taken within the maritime jurisdiction of Great Britain, in Table bay, at the Cape of Good Hope. It is presumed that if this fact can be established, her Majesty's government will not hesitate to accord that full reparation to the claimants for this lawless proceeding which is justly their due.

Should it, however, turn out, on a fuller investigation of the facts, that the capture was not made within the jurisdiction of Great Britain, I am nevertheless instructed to present the claim, under the general argument set forth in the note which I had the honor to address to your lordship on the 23d of October last.

I pray your lordship to accept the assurance of the highest consideration with which I have the honor to be, my lord, your most obedient servant,

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 584.]

LEGATION OF THE UNITED STATES,

London, January 28, 1864.

SIR: I have to acknowledge the reception of despatches from the department numbering from 801 to 811, inclusive.

Of these, Nos. 801 and 804, relate to the alleged enlistment of British subjects in the Kearsarge. They direct me to reopen the subject of the conduct of Mr. Eastman and Commander Winslow, as if it were still made a matter of remonstrance by the British government. I do not understand this to be the case. Since my note to Lord Russell, of the 14th December, reporting the reply of Commander Winslow, I have perceived no indication of any disposi-

tion to dwell further on the matter. It does not appear that any representation has been made through Lord Lyons to you at Washington. To renew the question under such circumstances would seem rather to imply uneasiness in the strength of our position, and over earnestness in satisfying unreasonable complaints. I have for these reasons concluded to defer any action under these instructions until either Lord Russell shall take some new step in the matter, or else you, after becoming fully possessed of the case, as it now stands, shall, nevertheless, still incline to have me take the prescribed course.

So likewise, your despatches, Nos. 805 and 807, direct me to make representations as to the conduct of the colonial authorities in Nova Scotia and New Brunswick in the case of the steamer Chesapeake. But the latest intelligence received from America leads me to suppose that the decision in that case has been, on the whole, as favorable as could be desired. Inasmuch as this is not, however, as yet put in any shape that can be absolutely depended upon, I have thought it best to put off taking any action under these instructions until the actual facts are ascertained.

For many reasons I hold it wise, just at this moment, not to crowd too many complaints upon the government here, and especially those which do not rest upon the firmest foundations. We have enough of this kind to embarrass them without resorting to others. In connexion with this subject, I may as well mention, that, owing to the difficulty of presenting the remonstrance contained in your despatch, No. 783, of the 8th of December, against the action of the son of the British consul at San Juan, in Porto Rico, I deferred doing so in writing until I could see Lord Russell to speak to him about it. The trouble was this: In the first place, the name of the party complained of was not given. Secondly, I could not find in the official list that there was any British consular officer at all set down to San Juan. The other day when I had an interview with Lord Russell, I took the opportunity to refer to the matter. One of the under secretaries was called in to verify the official list. It turns out that there must have been some mistake in your information as to the person, for there is no British consul at San Juan.

At the same interview I entered upon the line of argument with his lordship which you have marked out for me in several of your late despatches, a large part, but not all of which had been already embraced in my note to him of the 19th, a copy of which was sent to you with my No. 579, of the 21st instant, and is repeated in a note specially based upon your despatch No. 806, of the 11th of this month, a copy of which will accompany this. I alluded to the critical state in which the reciprocity treaty might be put by the omission satisfactorily to dispose of these multiplying causes of difficulty on the boundary, enlarged upon the aggravated nature of the violations habitually and audaciously committed by the rebels against the neutrality of Great Britain, and urged the expediency of some positive action in advance of any possible settlement of the differences in America, which might serve to rectify any popular impression that may have been made as to the proclivities of England during this war.

The conversation which followed was scarcely official on either side. His lordship led me to infer that he had himself been so much impressed with the expediency of doing something that he had proposed to the members of the cabinet to send an armed vessel to the confederate authorities, with an officer instructed to remonstrate, but they had not thought it best to sanction the measure. From this it would appear that the obstacle to action does not lie with him.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,
London, January 25, 1864.

MY LORD: I have the honor to present to your consideration copies of certain papers taken in steamers engaged in violating the blockade, the originals of which are on file in the district court of the United States for Massachusetts.

It would appear that this evidence furnishes another strong instance of the manner in which the insurgents habitually abuse the belligerent privileges which have been conceded to them by Great Britain. With the manifest design to protect British subjects who navigate the ships and cargoes purchased by them in this kingdom, and intended to violate the blockade, they give particular directions, forbidding any sign to be made on board or in foreign ports of their ownership. The facilities and privileges these vessels now enjoy by the use of the British flag are, it would seem, not to be curtailed; however, the reputation of her Majesty's government, as earnestly desiring to maintain neutrality, may be implicated by the fraud.

It must be obvious to your lordship that, after such an exposition, all British subjects engaged in these violations of blockade must incur a suspicion strong enough to make them liable to be treated as enemies, and if taken, to be reckoned as prisoners of war. If the flag of the kingdom be fraudulently used to cover the enterprises of the enemy, it will become very difficult to distinguish between those persons actually engaged in their vessels, and those *bona fide* employed by British owners. A new form of severity may thus be given to the struggle which would be regretted by none more than by my government. Much as the difficulty of their task has been aggravated by the wanton and persistent interposition of British subjects, it has never been their disposition to treat them, when in their power, with unnecessary harshness.

I am pained, in this connexion, to call your lordship's attention to the fact that Lieutenant Rooke, of her Majesty's army, after being taken in a steamer running the blockade, and released, has been detected in attempting to carry a contraband mail to Bermuda, to be delivered to insurgent agents at that place.

After the conversation which I had the honor to hold with your lordship on Friday last, I deem it almost superfluous to enlarge further on the difficulties which must grow out of a toleration of the outrageous abuses of the belligerent privileges that have been granted to the insurgents, as they have been laid before you for your notice. It would be difficult to find an example in history of a more systematic and persistent effort to violate the neutral position of a country than this one has been from its commencement that has not actually brought on a war. That this has been the object of the parties engaged in it, I have never for a moment doubted. Wearied, exhausted, and discouraged, as they notoriously are at this time, they still relax no effort that may bring to them some hope of relief from this source, the only one left to them. I entertain the strongest hopes that the wisdom and prudence of both governments will persevere in searching for the best means of making this expectation as vain as have proved all the others thus far cherished by them.

It has been no part of my instructions to address any argument on the subject to your lordship, based purely upon the possible consequences of permitting any similar toleration of such notorious enterprises in a neutral country to be brought into a precedent in future cases between belligerents. The fact that it must place an instrument of enormous power in the hands of weak nations on the ocean to annoy the stronger ones is too apparent to need exposition. I know not that, viewed as a pure question of interest to the United States, whenever it may again become a neutral power, there would be much reason to object to it. The great and serious difficulty is, to all nations, that it

furnishes incentives to a constant extension of the ravages of war on the ocean, equally to be deplored by all—an effort which it has been, of late years, the earnest desire of all to endeavor to restrict rather than to expand.

I pray your lordship to accept the assurances of the highest consideration with which I have the honor to be, my lord, your most obedient servant

CHARLES FRANCIS ADAMS

Right Hon. EARL RUSSELL, &c., &c., &c.

Mr. Adams to Mr. Seward.

Extract.]

No. 585.]

LEGATION OF THE UNITED STATES,

London, January 28, 1864.

SIR: In regard to the hope expressed in your No. 803 of the 6th instant, that the rumor of the stopping of the Pampero at Glasgow might prove true, you will long ere this have received full confirmation of it. I had considered Lord Russell's intimation to me, as reported to you in my No. 552, of the 10th of December, so distinct, that I had little doubt of the result from that moment. It is announced in the newspapers that the trial will come on in about a month.

One good effect of these various proceedings has been to remove all further anxiety respecting the destination of the formidable iron-clad ram in process of construction at the same place. That she was ordered in the first instance by the rebels I have no manner of doubt. She has now been purchased by the Danish government, as I learn from the minister, M. de Bille.

The prosecutions against Mr. Rumble, the inspector of machinery at the Sheerness dockyard, for complicity in the proceedings of the steamer Victor, *alias* Scylla, *alias* the Rappahannock, and against Messrs. Jones & Co., at Liverpool, for enlisting and paying men for service in the Georgia, are going on.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

Mr. Adams to Mr. Seward.

No. 586.]

LEGATION OF THE UNITED STATES,

London, January 28, 1864.

SIR: Though not important in themselves, yet, as making a part of the record, I have the honor to transmit—

1. A copy of Lord Russell's note of the 14th instant, acknowledging the reception of mine of the 13th, which with the papers was transmitted with my No. 576, of the 15th instant.

2. A copy of his lordship's note of the 21st instant, acknowledging the reception of mine of the 19th, which went out with my No. 579 of the 21st instant.

3. A copy of his lordship's note of the 23d instant, acknowledging mine of the 20th, which was sent with my No. 580 of the 21st instant.

4. A copy of his lordship's note of the 23d instant, acknowledging mine of the 20th, transmitted with my No. 581 of the 22d.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

*Earl Russell to Mr. Adams.*FOREIGN OFFICE, *January 14, 1864.*

SIR : I have the honor to acknowledge the receipt of your letter of the 13th instant, enclosing copies of a letter from the consul for the United States at Liverpool, and of three depositions relative to the case of the Alabama, and I have the honor to inform you that these papers have been communicated to the proper department of her Majesty's government.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

*Earl Russell to Mr. Adams.*FOREIGN OFFICE, *January 21, 1864.*

SIR : I have the honor to acknowledge the receipt of your letter of the 19th instant, calling my attention to certain statements made by the secretary of the so-called confederate navy, in a report addressed to the house of representatives, and I have to state to you that her Majesty's government will not fail to give to your representation their fullest attention.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

*Earl Russell to Mr. Adams.*FOREIGN OFFICE, *January 23, 1864.*

SIR : I have the honor to acknowledge the receipt of your letter of the 20th instant, enclosing copies of papers purporting to naturalize as citizens of the so-called Confederate States two British subjects serving on board the confederate steamer Georgia, and I have the honor to acquaint you that copies of these papers have been transmitted to the proper department of her Majesty's government.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

*Earl Russell to Mr. Adams.*FOREIGN OFFICE, *January 23, 1864.*

SIR : I have the honor to acknowledge the receipt of your letter of the 20th instant, enclosing copies of papers relating to the case of the bark Sea Bride, of Boston, captured by the Alabama; and I have to state to you that these papers shall be considered by her Majesty's government.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seaward.

No. 587.]

LEGATION OF THE UNITED STATES,

London, January 29, 1864.

SIR: The past week has been marked by a good deal of agitation in the political and moneyed circles of this metropolis.

One of the most curious of the phenomena developed has been the appearance of the London Times on Monday morning, assuring the public that peace was safe, whilst simultaneously the Post issued a leader, bearing a distinct official mark upon it, that sounded a clear note of imminent danger of war. This is the second time, within a few days, that the Times has evidently not been the press favored with the latest official intelligence at headquarters.

In the mean time the language of the press is becoming sharply denunciatory of Prussia and Austria. It was announced yesterday that the channel fleet was under sailing orders, and that arrangements were making to organize a corps of several thousand men, with suitable equipment for foreign service. This is one of the modes of action customary with Lord Palmerston, when he has an idea that he may, by means of it, be able to prevent a war. We can all remember the extravagant extent to which it was carried in the Trent case. The expedient sometimes serves its purpose; but when it fails, war is precipitated by it.

In order fully to comprehend these local movements, it is necessary to bear in mind the fact that Parliament is about to assemble for the despatch of business next week. In the Quarterly Review for this month has appeared an elaborate and able article reviewing the Danish question, which is not unfairly to be presumed to sound the key-note of the opposition on that subject. It is decisive and unequivocal as to the course which England should pursue. Notices, understood to be somewhat more than formal, have been issued to the members of the respective parties to be present at the opening. The inference is, that a point is to be made, if the ministry fail to come up to the war mark.

With these data, it is easy to see through the sudden energy shown by Lord Palmerston.

At the same time the rumors are general and uncontradicted of a decided difference of feeling in the royal family on this question. The Queen is German in race and in her marriage affinities. It may be that the whole of this ministry will not be brought up to the mark required by Lord Palmerston. Should the case become very grave, some may reluct at plunging into an illimitable area of expense. Should it so happen, the effect will doubtless be to lead to a reconstruction of the cabinet on mixed principles, and an appeal to the people in the heat of war fever. By such means Lord Palmerston could doubtless succeed in once more turning a difficult corner, and establishing himself in a new Parliament, on a basis which would last during the remainder of his political career.

The other event of the week is the speech of Mr. Bright at Rochdale, a report of which in the Times I transmit herewith. As a premonitory symptom of what is to create the party divisions of the future in this country, it is quite significant. Perhaps there is no individual who is looked upon with a greater mixture of apprehension and dislike by the privileged classes than he. It is to the fearless and persevering manner with which he holds up the example of the United States that much of the hostility to us which has animated them during this struggle is due. His extraordinary felicity as a speaker renders him much too formidable to be laughed or sneered down—the common mode of rubbing out unpleasant obstacles. Hence the attempt of the Times the mouth piece of his enemies, to sap his power by sheer and wanton perversion of his language—an old trick, which seldom obtains more than a temporary

success, at a heavy ultimate expense. The very moment the war comes to an end, and a restoration of the Union follows, it will be the signal for a reaction that will make Mr. Bright, perhaps, the most formidable public man in England.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

Mr. Seward to Mr. Adams.

No. 823.]

DEPARTMENT OF STATE,

Washington, February 1, 1864.

SIR: Your despatch of January last (No. 575) has been submitted to the President.

It is supposed here that the delay in the case of the *Alexandra*, which results from the decision recently pronounced, and the appeal thereon to the court of exchequer, are regarded by her Majesty's government as not unfavorable to the policy they have adopted to prevent the levying of naval war from British ports against the United States. In view of this circumstance I forbear for the present from making a formal protest against that decision.

There are some indications of a movement concerted in the insurgent region, and extending into Great Britain, to bring a supposed influence of her Majesty's government or of Parliament to bear upon this government, by some form of mediation or representation, with a view to obtain concessions or terms for the insurgents as conditions of the abandonment by them of their wicked and unnatural war against the United States.

It is proper that you should be able to say, if occasion for such explanation should become necessary, that this government now, not less than heretofore, would regard as unacceptable and unfriendly the intervention or advice of foreign states. The stability and safety of the American republic demand that it shall go through this the first national crisis, when foreign aid to overthrow it has been invoked by disloyal men, without yielding or abating any portion of its legal or even of its moral sovereignty and independence.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 824.]

DEPARTMENT OF STATE,

Washington, February 1, 1864.

SIR: Your despatch of the 14th of January (No. 574) has been received. Nothing has occurred here to raise a doubt as to the authenticity of the report of S. R. Mallory, to which it relates. It has internal evidences of genuineness, although it is wonderful that such a paper should have been promulgated.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES F. ADAMS, &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 827.]

DEPARTMENT OF STATE,
Washington, February 2, 1864.

SIR: I have received your despatch of the 15th of January, No. 578, together with an address of citizens of Ashton-under-Lyne to the President of the United States, and I have had the honor of placing that very interesting paper in the hands of the Chief Magistrate.

You are authorized to inform those citizens that the President receives with lively satisfaction their assurances that, under all the disadvantages of a distant position, they have not been unable to understand the policy of this government, and to comprehend how a fixed and summary determination to rescue the state from the assaults of domestic faction is compatible with the policy of lawfully extinguishing the chronic evil of African slavery.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES F. ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 828.]

DEPARTMENT OF STATE,
Washington, February 2, 1864.

SIR: I transmit herewith, for your further information on the subject, a copy of a memorandum of this date, and of the paper therein referred to, relative to the examination of Drs. Almon and Smith and Mr. A. Keith, jr., charged with having obstructed the execution of a warrant for the arrest of Wade and others, of the pirates engaged in the Chesapeake affair.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES F. ADAMS, Esq., &c., &c., &c.

[The enclosures referred to will be found among correspondence with the British legation, in this volume.]

Mr. Seward to Mr. Adams.

[Confidential.—Extracts.]

No. 829.]

DEPARTMENT OF STATE,
Washington, February 4, 1864.

SIR: * * * * *

Our civil war is exhibiting a new phase. There is manifestly a very general confidence in a speedy success of the Union, and a willingness to make all the material contributions and sacrifices necessary to secure that consummation. On the other hand, there are discouragement and alarm, attended by unmistakable financial embarrassments, in the region of the insurrection.

The most reliable test of despondency on the part of the insurgents is the depreciated estimate they now put upon slaves. I have noticed that one hundred and fifty or two hundred dollars of United States currency is the highest price which the most marketable slave commands, either in Virginia or in Georgia. The Richmond papers declare that board and clothing are a full equivalent for the hire of the best servants in that market. I need not say that

this is a confession that slaves as property are absolutely worthless. If this is true, how long can it be before they become an incumbrance and a source of danger? It is specially to be remarked that other property is not depreciated. Provisions, clothing, and, I believe, even lands retain the market value they had before the war. Is not this an indication that the slave States are already assimilating their economy to that of the free States? * * * * *

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES F. ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward

[Extract.]

No. 590.]

LEGATION OF THE UNITED STATES,
London, February 4, 1864.

SIR: Despatches numbered from 812 to 819, inclusive, have been received at this legation.

In regard to the views taken in your despatch No. 812, of the 13th of January, I had already in my note to Lord Russell of the 25th ultimo, a copy of which was sent to you last week, apprised him of the probable effect, on British subjects attempting to run the blockade, of the latest trick resorted to by the rebels. A copy of his lordship's acknowledgment, dated the 1st instant, is herewith transmitted.

The breaking out of open hostilities between the powers of Germany and Denmark, which happened on the 1st instant, has for the moment thrown into the shade all other questions. It is so doubtful what will be the course taken by Great Britain, that there is no disposition to attend to anything else until that be settled. * * * * *

Parliament assembles this day. It is intimated that, in deference to the peculiar situation of the Queen, the speech will not be a full exponent of the sentiments of the government. The national voice will be gathered rather from the remarks which may be made in the respective houses by the representatives of the opposite parties. I purpose to be present at the opening, and to report to you my impressions in a later despatch by this week's steamer.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

Earl Russell to Mr. Adams.

FOREIGN OFFICE, *February 1, 1864.*

SIR: I have the honor to acknowledge the receipt of your letter of the 25th ultimo, enclosing copies of papers taken in steamers engaged in running the blockade of the southern ports; and I have the honor to inform you that the matter to which your letter refers shall be considered by her Majesty's government.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 591.]

LEGATION OF THE UNITED STATES,
London, February 4, 1864.

SIR: The question on the appeal from the decision of the court of exchequer in the case of the *Alexandra* will come up for consideration on Saturday next, before the court of exchequer chamber, composed of eight judges, and four from the court of common pleas. Mr. Evarts, who has been in Paris for a few days past, will probably be here in season to watch the case on behalf of the government, and make his report to you.

The activity in sending out vessels to run the blockade continues, though it seems now to be understood that a larger proportion of each risk is assumed by the rebel authorities. It has just been reported to me, from a secret source, that the steamer called the *Kangaroo* is about to depart, with a considerable number of rebel passengers, including Messrs. Mason and Slidell, and a large sum in money, but with no other freight. Should this prove to be true, you will probably get by this steamer more exact information from another source.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD, &c., &c., &c.

Mr. Adams to Mr. Seward.

[Extract.]

No. 593.]

LEGATION OF THE UNITED STATES,
London, February 5, 1864.

SIR: * * * I attended the session of the House of Lords for the purpose of hearing the speeches of Lord Derby and Lord Russell. As a result, I could not perceive that more was meant than the customary game or fence between the treasury benches and the opposition. Although on the Danish question the foreign secretary evidently spoke under a heavy sense of the gravity of the situation, he manifested no intention to act at the moment up to the duty which he admitted to be incumbent on the government of declaring an absolute policy.

The speech contains no allusion whatever to the United States; but many references to the subject were made in the course of the debates, principally by members of the opposition. You will particularly note that of Lord Derby, because it touches one portion of your instructions to me of the 11th of July, (despatch No. 651,) lately published in America, upon which, for reasons given at the time to you, I thought it best to desist from acting. The actual temper towards us does not appear to be materially changed. It is only subdued by the sense of a more immediate and dangerous complication.

On the whole, the spectacle here exhibited is one of weakness and irresolution. The government has no confidence in its ability just yet, to carry through a positive policy, and the opposition is just as little capable of forcing it to accept one or to retire.

In the mean while, the chances are that the German powers will take possession of the disputed territories, and dictate their own terms as to the tenure of them afterward.

I have just received from the consul at Liverpool advice of a movement making by the rebels and their friends at that place to get up a petition to

Parliament for recognition. What they expect to gain by such an attempt, at this inopportune moment, it is difficult to conjecture.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

Extract from speech of Earl Derby.

* * * * *

Again, it would appear that, notwithstanding the concessions which the noble earl has made to the federal States of America, in carrying out what he calls neutrality, but what I am afraid I must call one-sided neutrality, he has received from these States not thanks, because I believe that papers which have been laid before the Senate of the United States show that we were met by demands and menaces, which I should be much astonished if any one calling himself a British minister must not have felt a difficulty in receiving, when the despatches containing them were placed in his hands. Since then we are not only told that the American government will hold us responsible for any damage which their commerce may have sustained by the acts of the Alabama, but, if I have not misread the papers laid before Congress, they state that if we do not put a stop to the sale of vessels of this kind in this country, the result must be that the federal government will take the law into their own hands; that their cruisers will follow these vessels into British ports, and will, in British waters, maintain their own interests. My lords, I hope the noble earl will be able to show that he has answered that despatch in a manner which will put an end to such monstrous demands for the future. [Hear, hear.] But if I am not mistaken, the last despatch from Washington was written about August, and was received here towards the latter end of August, and early in September the noble earl took the strong step of seizing the so-called confederate rams in the Mersey upon that very suspicion as to which a year before, the attorney general informed Parliament that the government would not be warranted in interfering. [Hear, hear.] Well, then, my lords, if you have not satisfied the federals, neither have you satisfied the Confederate States. [Hear.] * * *

Extract from Earl Russell's speech.

* * * * *

Well, but what then was the noble earl's reason for dwelling on that topic? If to differ from France be an offence, how could we help differing from her on that question? [Hear.] My opinion on these matters is very different from that of the noble earl. I think that, though on some questions which arise the Emperor of the French may pursue a different policy from that which we follow, he gives full weight to the consideration that the policy which may suit the French nation may not be the policy which the British nation prefers. I believe that the Emperor is too just to attribute such a difference of opinion to anything but a regard for the policy which we think right, and which we think the interests of this country call upon us to pursue. [Hear, hear.]

Mr. Seward to Mr. Adams.

No. 830.]

DEPARTMENT OF STATE,
Washington, February 5, 1864.

SIR: I transmit the copy of a despatch of the 21st ultimo from the consul of the United States, at Halifax, Nova Scotia, and of the address of the workingmen and other inhabitants of that place, to the President of the United States, which accompanied it, together with a copy of the reply which the President proposes to make to it, should such reply meet with the approbation of Earl Russell, to whom you will informally submit these papers, Lord Lyons having declined to entertain the matter, preferring the reference now made.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES F. ADAMS, Esq., &c., &c., &c.

Mr. Jackson to Mr. Seward.

No. 15.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Halifax, Nova Scotia, January 21, 1864.

SIR: I have the honor, at the request and on behalf of a committee appointed by the memorialists, consisting of Hon. John Tobin, M. P. P., Rev. Dr. Pryor, and James Cochran, John W. Young, Joseph Jennings, John Gibson, Alexander James, and George McKenzie, esquires, to transmit to you for presentation to his excellency the President of the United States the enclosed memorial addressed to him, signed by 153 citizens of Halifax, Nova Scotia.

Whilst the general feelings and sentiments of the citizens of Halifax are not in sympathy with the cause of the Union and of our country, but are hostile to it, it is nevertheless true, as the memorial sufficiently indicates, that *among the citizens* there are men, representing the various classes of the community, and some of the highest standing, character, and influence, who throughout our noble struggle for freedom, humanity, and constitutional government, have warmly sympathized with the loyal people of the United States.

I beg leave, in connexion with the memorial, to call your attention to the enclosed communication from Donald Ross, esq., on behalf of the memorialists.

I have the honor to be, sir, your obedient servant,

M. M. JACKSON,
United States Consul.

HON. WILLIAM H. SEWARD,
Secretary of State.

Mr. Ross to Mr. Jackson.

[Private.]

HALIFAX, *January 20, 1864.*

DEAR SIR: I send with this a letter to you with reference to the memorial to the President. You can prepare your letter to Mr. Seward, so as to have it ready for forwarding with the memorial per steamer.

The names given in the accompanying letter represent a large amount of wealth as well as respectability. Indeed, no community could furnish eight names more universally or deservedly respected.

The memorial will be sent up to your office this afternoon. I send a printed copy in the letter to you, which you should, I think, forward to Mr. Seward, along with the memorial. I send also a printed copy for your own use. In the event of the President making a reply, which no doubt he will, the acknowledgment of the memorial, if made to the *gentlemen whose names are mentioned* in the letter to you, would be better than if made to *one individual*; but all that will be arranged by Hon. Mr. Seward and yourself.

Yours, sincerely,

DONALD ROSS.

Hon. M. M. JACKSON,
United States Consul.

Mr. Ross to Mr. Jackson.

HALIFAX, NOVA SCOTIA, *January 20, 1864.*

DEAR SIR: I have been requested by the Rev. John Pryor, doctor of divinity, Halifax; John Tobin, esq., member of legislative assembly, Halifax; James Cochran, esq., J. P., merchant, Halifax; John W. Young, esq., merchant, Halifax; Joseph Jennings, esq., J. P., alderman for the city of Halifax; John Gibson, esq., merchant, Halifax; Alexander James, esq., barrister at law, Halifax; George McKenzie, esq., merchant, Halifax; and other merchants, mechanics and laborers who subscribed the accompanying memorial to his excellency Abraham Lincoln, President of the United States of America, to hand the same over to you, and respectfully request that you will be pleased to forward the memorial to the Hon. Mr. Seward, at Washington, with the request of the above-named gentleman that he will be pleased to present the same in their name, and those with them subscribing, to his excellency the President of the United States.

And I have the honor to be, dear sir, your very obedient servant,

DONALD ROSS.

Hon. Mr. JACKSON,
United States Consul, Halifax, N. S.

To his Excellency Abraham Lincoln, President of the United States of America.

The memorial of the undersigned, citizens, workingmen, and others, inhabitants of Halifax, Nova Scotia, and neighborhood, sheweth: That your memorialists, feeling themselves allied in race, language, literature, commerce, and civilization, as well as in geographical proximity, to the great American nation, over whose destinies a gracious Providence has called you to preside, regard themselves as vitally interested in the issue of the existing great conflict in your country, as one involving the extension or *extinction* of human and political freedom throughout the whole of the American nation.

Your memorialists have always deeply regretted the existence of slavery in the United States as the one foul blot on your country and Constitution; and therefore they feel deeply thankful to an all-wise Providence for the large measure of success which has attended the United States forces in suppressing the slaveholders' rebellion, and for the gigantic strides which have recently been made by your government and people towards a total abolition of slavery.

Your memorialists rejoice in the advent to power of the great republican party, through whose anti-slavery policy these great and beneficial changes have been inaugurated; and they are fully convinced that the sympathies of all real

lovers of liberty and of humanity, whether in Great Britain or in the British colonies, are due to that noble struggle on your part to maintain intact the Union, while determinedly resisting the infamous and insidious encroachments of the slaveholding faction in the rebel States.

Your memorialists desire earnestly to repudiate all sympathy with the treasonable attempt of the slaveholders to rend their country into two opposing sections, with the avowed aim and object of holding in perpetual and hopeless bondage many millions of human beings! While fervently desiring the speedy termination of the vast and unprecedented civil war which is desolating so large a portion of your country, your memorialists believe that the most effectual and practical way of attaining so desirable an end is by withholding *all aid and sympathy* from the rebels of the south, the authors of all these dire calamities, and lending all possible moral influence and strengthening in every possible way the executive government at Washington, to whose proper province belongs the suppression of the rebellion and the restoration of peace and order to your distracted land.

Your memorialists, therefore, rejoice that her Majesty's government in Britain have recently taken very decisive measures to prevent the further issue from the shores of that country of steam rams, and other vessels, for the rebel confederates; which vessels would be used for attacking the commerce of the great American nation, with which Great Britain is, and (we sincerely believe) desires to remain, at peace.

Fervently as your memorialists desire that peace may return to your country, they trust it may be *THAT* peace which may come to remain with you, and therefore they hope that (no matter how protracted the struggle) under no conceivable circumstances will any compromise be effected between the contending parties which does not embrace or provide for the total abolition of slavery, as well as the maintenance, in all its geographical boundaries, of the integrity of the great American Union.

In conclusion, your memorialists wish to convey to your excellency their deep sense of the zeal, integrity, humanity, and thorough good faith with which you discharge those very onerous and important duties devolving upon you, not only as the Chief Magistrate of the United States of America, but also as commander-in-chief of the United States army and navy; and your memorialists pray that your excellency may be spared and strengthened for still further efforts in the cause of freedom and humanity, as against slavery and rebellion, until the last vestiges of that inhuman and iniquitous system be forever swept away from American soil, and until the United States flag shall again wave triumphantly over a free people in every State and Territory in your highly favored land.

GENTLEMEN: I have had the honor to receive and to lay before the President of the United States the address which bears your signatures, and which was transmitted to this department by the American consul at Halifax. The President has received with sincere satisfaction the assurance of your desire for the preservation of peace between this country and your own, of your respect for the institutions of the United States, and your convictions that the counsels by which the government is conducted in this important national crisis are wise, just, and benevolent.

In reply to these generous sentiments, I can only say to you, as I am habitually saying on behalf of the President to the European government under whose honored protection you are living, that if the civil war with which God has been pleased to visit our country is now to be aggravated by the complication of a border war with the provinces of British North America, the record of this

unhappy conflict shall bear unquestionable evidence that it was a war which was maintained on the part of the United States in necessary defence of the nation and of the cause of humanity.

The efforts of every citizen, of either state, to avert such an unreasonable conflict is of inestimable importance. I give you, therefore, the President's sincere thanks for the tribute you have paid in your address to the interest of international peace and friendship between the two principal branches of a race that ought to devote itself wholly to the advancement of the world's civilization.

Mr. Seward to Mr. Adams.

No. 833.]

DEPARTMENT OF STATE,

Washington, February 5, 1864.

SIR: I enclose copies of the Morning Chronicle, of this city, of yesterday, which contain an article from the Richmond Examiner, of the 25th ultimo, relative to the stranding and destruction of the blockade-runner Vesta, near Wilmington. The article confesses that at least a part of the cargo of the steamer was the property of the insurgent government, so called. You may consequently find it useful as cumulative proof of the fact that their resistance is prolonged by the introduction of such supplies in that way. It is not unlikely that the vessel itself was also really owned by the same party.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES F. ADAMS, Esq., &c., &c., &c.

The blockade.—Wreck of the steamer Vesta.

[From the Richmond Examiner, January 20.]

We have the particulars of another disaster off the Carolina coast—the wreck of the Vesta, one of the finest steamers in the blockade-running line. The incidents are obtained from a confederate officer, who was a passenger from Bermuda.

The following is a list of the Vesta's passengers: Mrs. John Mitchell, Miss Minnie Mitchell, Miss Isabel Mitchell, Mr. T. J. Leed, England; Mr. Perrin, Confederate States navy; Lieut. J. H. Gardner, Confederate States navy; Dr. William Shepherdson, Confederate States navy; Paymaster Moses, Confederate States navy; Mr. Kirlebane, Bermuda.

This was the first trip of the Vesta from England. She was a double-screw steamer, perfect in all appointments, and commanded by Captain R. H. Eustace, an Englishman.

The Vesta left Bermuda on the 3d instant. For seven days she was chased over the seas by a number of Yankee cruisers, but succeeded in eluding them, and on the 10th instant made the coast in the vicinity of Wilmington. Being compelled to lay to, she was descried by a Yankee cruiser, which gave chase, and in half an hour more eleven Yankee vessels were pouncing down upon the suddenly discovered prey. The Vesta, although apparently surrounded, ran the gauntlet in splendid style, through one of the most stirring scenes which the war has yet witnessed on the water. Some of the cruisers attempted to cross her bows and cut her off, but she was too rapid for this manœuvre, and at half a mile's distance some of the cruisers opened their broadsides upon her, while five others in chase were constantly using their bow guns, exploding shells right over the decks of the devoted vessel. Fortunately no one was hurt, and the vessel ran the gauntlet, raising her flag in defiance, suffering only from a single shot, which, though it passed amidships, above the water-line, happily escaped the machinery.

But the trouble seems to have commenced with what the passengers anticipated to be the triumphant escape from their captors; for the captain and the first officer, Tickler, are reported to have become outrageously drunk after the affair was over and the night had fallen. It is said that the captain was asleep on the quarter-deck, stupefied with drink, when he should have put the ship on land; and that at 2 o'clock in the morning he directed the pilot to take the ship ashore, telling him that the ship was ten miles above Fort Fisher, when the fact was that she was about forty miles to the southward of Fryingpan shoals.

Fifteen minutes afterwards the Vesta made land, the pilot having run her so far ashore that it was impossible to get her off. She was run aground at Little River inlet; the passengers landed in boats minus their baggage; and, although there were no cruisers in sight, and not the least occasion for precipitation, the vessel, with all her valuable cargo, was fired before daylight, by order of Captain Eustace, and burned to the water's edge. The cruisers did not get up to the wreck until two o'clock on the afternoon of the next day, and then they were attracted to it by the smoke from the conflagration.

The cargo of the Vesta was of the most valuable description; three-fourths of it on government account, consisting of army supplies, and including a very extensive lot of English shoes. There was also lost by the wreck a splendid uniform, intended as a present to General Lee, from some of his admirers in London. Nothing of any account was saved.

Mr. Seward to Mr. Adams.

No. 834.]

DEPARTMENT OF STATE,

Washington, February 6, 1864.

SIR: I have to inform you that it has become known to this government that the British steamer Will-o'-the-Wisp will soon, if she has not already, leave Halifax, in ballast for Bermuda, on account of the insurgents of the United States, and under direction of their agents, now having harbor at Halifax; that on arriving at Bermuda she will take in ordnance and stores for the use of the insurgents, and attempt to make her way into Wilmington; and that this proceeding will be under the direction of insurgent agents at Bermuda. I consequently have to suggest to you the expediency of requesting of Earl Russell that the colonial authorities at Bermuda may be apprised of this hostile proceeding, in order that, if deemed advisable, it may be arrested.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES F. ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 835.]

DEPARTMENT OF STATE,

Washington, February 6, 1864.

SIR: I transmit the copy of a despatch of the 5th of December last, from Mr. W. R. G. Mellen, the consul of the United States at Port Louis, Mauritius, relative to the capture of the American ship Sea Bride, by the piratical steamer Alabama. When you have sufficient information you will represent it to the British government.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, &c., &c., &c.

Mr. Mellen to Mr. Seward.

No. 17.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Port Louis, Mauritius, December 5, 1863.

SIR: In my despatch No. 15, dated November 5, 1863, I stated what I knew, and had sufficient reasons for believing of the fate of the American ship *Sea Bride*. This vessel, it will be remembered, was captured by the *Alabama* in or off Table bay. Whether she was first taken, as reports affirm, to some point on the west coast of Africa, I know not, but it is certain, as was stated in my despatch above referred to, that she was subsequently brought to Foulle Pointe, Madagascar. Her cargo was then shipped on board the brig *Reward*, of and for this port; but the brig soon after putting to sea, sprang a leak, was forced into St. Mary's, a French port, where she has been condemned; while another vessel has been despatched from this place to bring forward what was originally the *Sea Bride's* cargo. A citizen of the island, who is the master of a small vessel trading between here and Madagascar, stated boastfully, in the presence of two American shipmasters, a few days since, that he had been several times on board the *Sea Bride*; that the man who had bought the cargo would make \$60,000 by the transaction; that he himself had bought the ship at the merely nominal price of \$6,000.

After gathering what information I could, and with the hope of eliciting more, I addressed a letter to the colonial government, stating the facts, and dwelling particularly upon the confession of the buyer, and asking, as I am certified was done in an exactly similar case at Cape Town, that the said shipmaster, one A. Baillon, be examined under oath as to his knowledge of and complicity with these improper transactions. This request General Johnstone, the officer administering the government, saw fit to refuse, on the two-fold ground that "no action, whether civil or criminal, is competent to the government in any court of the colony" in the premises; and that if any proceedings could be instituted, Mr. Baillon could not be examined, as he might thereby commit himself.

Immediately after the reception of this letter I addressed another one to the colonial government, in which I endeavored to show that, by aiding in the disposal of a captured *uncondemned* ship and cargo, some of her Majesty's subjects at Mauritius had, to all intents and purposes, been levying war against the United States; for the disposal of the property in question was but the completion of a hostile act—as much a part of that act as the capture of the vessel, or the placing of a prize crew on board. Still further, that, according to British decisions, the *disposal* of such a captured, *uncondemned* ship and cargo, whatever might be said of the original seizure, was simply piracy—that it was just for such an offence as this that the notorious Captain Kidd was hung. If, therefore, what Baillon confessed, what I could easily prove he had confessed, were true, which I thought there would be little difficulty of showing by other evidence, it followed that he was in collusion with pirates, if he had not himself been guilty of piracy. I therefore renewed my request for his arrest and examination, remarking that it would be strange if in a British colony a British subject could openly boast of piracy, and yet the government be unable to visit him with its displeasure; and that it would be still more singular if his open confession of the offence were to bar proceedings against him!

In reply, a poor attempt was made to convict me of some verbal inconsistencies. I was assured the government had seen no reason to change its determination, and that inasmuch as the British government had recognized the confederates as belligerents, it could not regard them or their cruisers as pirates; entirely overlooking the fact that it was on the *disposal* of the *uncondemned* property, which no commission can justify, and not on its original capture, that I based the charge of piracy.

Since the reception of the last-named letter, I have not had time to prepare a reply. I shall do so in a very few days, and bring the subject to the attention of his excellency Sir Henry Barkly, who has just entered the gubernatorial office here. - True, Baillon has now left the colony, though he may soon return; while the cargo of the *Sea Bride* will probably reach him in two or three weeks.

In accordance with the purpose intimated to you in my despatch of November 5, I addressed, soon after, a letter to the minister of foreign affairs of the Malagash government, in which I briefly stated the condition of affairs in the United States, rehearsed the facts which had come to my knowledge concerning the *Sea Bride*, and strongly remonstrated against any consent to, or connivance with, such transactions, warning the Malagash government that no such disposal of captured, uncondemned American property in that island would be tolerated, but that the property would be reclaimed, and reparation demanded at the earliest opportunity. I also requested that the *Sea Bride*, if still within Malagash jurisdiction, should be seized by the authorities of that government and held subject to my order, as the nearest representative of American interests. Sufficient time has not yet elapsed to show what the effect of this letter will be. I trust it will be good.

The relation of these things illustrates still more clearly what I have several times before had the honor of bringing to your notice, the importance of having some recognized agent of the United States in Madagascar, and also the very great importance of having some armed force to protect our interests in these waters. Not, so far as trustworthy intelligence has reached me, that any confederate cruisers are east of the Cape of Good Hope, though a report, to which I give no credit, makes two of them in the Bay of Bengal.

Supposing, from what I learned about three weeks ago, that a portion of the cargo of the *Sea Bride* would be landed on the island of Reunion, where we have no consul, I took the liberty, for reasons similar to those which induced me to write the Malagash government, to address a letter to his excellency the governor of that island, relating the facts concerning the *Sea Bride*, so far as I had then learned them, remonstrating against his allowing said merchandise to be sold in Reunion, and requesting his good offices to enable me to get possession of either vessel or cargo, if either or any portion of the latter should arrive at Reunion. His reply gives no intimation of what course he would adopt under the circumstances; it is feared not a very friendly one.

I have thus, sir, given you an account of what I have done, or what I have attempted to do, to hinder the disposal of this uncondemned American property, and to protect the rights of my countrymen hereabouts. If I have erred in any respect, the error has not been one of intention. If my conduct in these respects meets approval, I shall be glad to know it. At the same time I respectfully solicit instructions for the future.

I have the honor to be, sir, your very obedient servant,

W. R. G. MELLEEN,
United States Consul.

HON. WILLIAM H. SEWARD,
Secretary of State, &c. &c.

Mr. Seward to Mr. Adams.

No. 837.]

DEPARTMENT OF STATE,
Washington, February 8, 1854.

SIR: I have the honor to acknowledge the receipt of your despatch of January 21, which is accompanied by a copy of the note you addressed to Earl Russell on the 19th of that month in execution of the instructions conveyed in my despatch to you of the 20th of December last, No. 789. Digitized by Google

Your proceedings thus reported to this department are fully approved.

With reference to the Canadian reciprocity question, you are authorized to say that nothing could be more foreign from the purpose or the desire of the President than to hold up the difficulties which are arising in regard to that question with any view of mere demonstration. Discontent with the operation of that treaty, the argument of the need to economize revenue, the soreness produced by the co-operation of British subjects in the British islands, and more especially of British subjects in the provinces adjacent to the United States in the slave insurrection, have had the effect to bring on legislative agitation of the question which the President would willingly have averted until a later and more convenient season. Every day opposition to the treaty seems to be gaining strength. I have been less free and full in my explanations to you on this subject than I have in my communications with Lord Lyons, for the reason that his presence here would enable him to weigh such representations as I have found it necessary to make with more candor than I could expect for them at London. I think his lordship will have prepared the way for your representations on the subject to Earl Russell. It is not, however, my purpose to control your action upon the subject, or to limit you in the exercise of your discretion as to the time and manner in which they shall be made.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., *London*.

Mr. Seward to Mr. Adams.

No. 838.]

DEPARTMENT OF STATE,
Washington, February 8, 1864.

SIR: Your despatch of January 21 (No. 580) has been received, together with a copy of your note to Earl Russell, on the subject of pretended rebel naturalization at sea. I have the pleasure of informing you that the spirit of that paper, as well as the terms in which it is expressed, are fully approved. The President thinks that the vigilance you have manifested in so promptly bringing the matter to the notice of her Majesty's government is worthy of especial commendation.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 839.]

DEPARTMENT OF STATE,
Washington, February 8, 1864.

SIR: I transmit, for your information, a copy of a despatch (No. 56) which has been received from Mr. Burlingame, our minister resident in China.

The proceedings of Sir Frederick Bruce, her Britannic Majesty's minister in China, in regard to the vessels sent out to that country from Great Britain, as described in this paper, seem so considerate, just, and wise, that it is thought proper that you should inform her Majesty's government of the satisfaction with

which they are regarded by the President, unless, indeed, circumstances existing in Great Britain, and unknown here, should, in your judgment, render such a communication inexpedient at this time.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

[For enclosure see Mr. Burlingame's despatch in this series.]

Mr. Seward to Mr. Adams.

No. 840.]

DEPARTMENT OF STATE,

Washington, February 8, 1864.

SIR: Your despatch of the 22d ultimo, (No. 583,) enclosing a letter of the 6th of November, which was addressed to you by Charles Jones, esq., relating to the imprisonment of Mr. Mansfield, our consul at Tobasco, by the French authorities there, has been received. I have sent a copy of Mr. Jones's letter to Mr. Dayton, who has been instructed to request the release of Mr. Mansfield, and an explanation of the proceedings against him.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 594.]

LEGATION OF THE UNITED STATES,

London, February 11, 1864.

SIR: Your despatch (No. 820) was the only one received this week. Five copies of the President's annual message and accompanying documents came with it.

I have sent an answer to the address of the Order of Memphis, in the identical terms of the despatch.

As Mr. Evarts has not yet returned from the continent, I have the honor to transmit copies of the London Times of the 8th and 9th instant, containing a report of the further proceedings in the case of the Alexandra. It appears that the government has been again foiled in its purpose to gain from the higher courts a judicial exposition of the enlistment act, by the interposition of technical objections to the process. I think they are by no means insensible to the awkward position in which this difficulty places the country in its relations with foreign nations. Inasmuch as the majority of the judges, whilst declining to take jurisdiction themselves, left open a way to the transfer of the question to the House of Lords, it is generally understood that that course will be adopted. The effect will be to cause another delay for a considerable time. And this delay will, in its turn, cause a postponement of any definite action upon the representations made by me to this government under the instructions contained in your despatch (No. 802) of the 6th of January. A report of my conference with Lord Russell on that subject was sent to you in my despatch (No. 584) of the 28th ultimo.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

P. S.—Mr. Evarts has called at the legation since the above was written.

THE ALEXANDRA CASE.

THE COURT OF ERROR, FEBRUARY 6.

Present: The lord chief justice of England, the lord chief justice of the common pleas, Mr. Justice Williams, Mr. Justice Crompton, Mr. Justice Willes, Mr. Justice Blackburn, and Mr. Justice Mellor.

THE ATTORNEY GENERAL *vs.* SILLEM AND OTHERS.

This case came before the court upon appeal from the decision of the court of exchequer, come to on the 11th of January last.

As soon as the case was called on for hearing, Sir Hugh Cairns, on the part of the defendants, took an objection to the means by which the case had been brought into the court for argument.

In order to make the present proceeding intelligible to our readers, it will perhaps be necessary to give some short outline of the case, bringing it down to the present moment. An information was filed by the crown against the defendants, following a seizure made by an officer of customs of the ship *Alexandra*, and the substantial question for the jury to determine at the trial was whether the condition of that vessel, at the time of her seizure, brought her within the provisions of the foreign enlistment act, 59 Geo. III, c. 69. The trial commenced before the lord chief baron on the 22d of June last, and terminated on the 24th of that month in favor of the defendants. The late Sir William Atherton, when attorney general, conducted the prosecution, and before the finding of the verdict proposed to tender a bill of exceptions to a portion of the learned lord chief baron's ruling, and a brief note of the exceptions was handed up to him, when his lordship objected that it did not contain a correct statement of his ruling, and refused to accept it as a bill of exceptions; but ultimately it was agreed that a bill of exceptions should be formally prepared from such materials as could be found for that purpose and tendered for signature. The lord chief baron declined, when the formal exceptions were tendered, to sign them, for the same reason as above stated. On the 3d of November the present attorney general, Sir Roundell Palmer, upon an application to the court, said that the main point raised in the case was of such very grave and momentous importance that the crown was desirous that it might go to the court of error, and the last court of appeal, viz: the House of Lords, should it ultimately prove that one or both steps were necessary. The lord chief baron said he saw no prospect whatever of any change in the view he had taken as to his duty in signing the bill of exceptions. That so far from laying down the law, as the bill of exceptions tendered to him for signature had assumed he had, he had taken great pains to avoid doing anything of the kind. After the matter had been further discussed, the lord chief baron suggested that the object the crown had in view might be obtained by a motion without any reference to the bill of exceptions at all. It was true there had been no point reserved at the trial so as to give the crown a right of appeal in the event of the rest of the court concurring with his ruling and the direction he had given to the jury. It was a matter to be regretted, however unanimous the court might be in opinion, if they did not give the crown, as they had the power of doing, a right of appeal from their decision to a superior court. Baron Bramwell suggested that a difficulty might arise upon the question whether the common law procedure act applied to proceedings like those before the court. The act, which, to a certain extent, assimilated crown proceedings to civil actions, did not comprehend the case of an appeal from making absolute or discharging a rule; whether that was so or not, he thought, was open to some considerable doubt. On a subsequent day the attorney general moved to apply the common law procedure acts of

1852 and 1854. and the rules of pleading and practice to the revenue side of the court, so that an appeal would be competent under the 26th section of the Queen's remembrancers act, 22d and 23d Victoria, cap. 21. The section states, "It shall be lawful for the lord chief baron, and two or more barons of the court of exchequer, from time to time, to make all such rules and orders as to the process, practice, and mode of pleading on the revenue side of the court," and as to some other things, "as may seem to them necessary and proper, and also, from time to time, by any such rule or order to extend, apply, or adapt any of the provisions of the common law procedure act of 1852, and the common law procedure act of 1854, and any of the rules of pleading and practice on the plea side of the said court to the revenue side of the said court, as nearly as may be uniform with the process, practice, and mode of pleading on the plea side of such court." Their lordships, after some consideration of the matter, on the 4th of November, 1863, issued the following rules:

"Court of exchequer.—Revenue side.

"In pursuance of the provisions contained in the 26th section of the 22d and 23d Victoria, cap. 21, entitled 'An act to regulate the office of Queen's remembrancer, and to amend the practice and procedure on the revenue side of the court of exchequer'—

"It is ordered that the following provisions of the common law procedure act of 1854 be extended, applied, and adapted to the revenue side of the court of exchequer; and also that the following rules as to giving bail in cases of appeal shall be in force on the revenue side of the court of exchequer.

"1. In all cases of rules to enter a verdict or non-suit upon a point reserved at the trial, if the rule to show cause be refused or granted, and then discharged or made absolute, the party decided against may appeal.

"2. In all cases of motions for a new trial upon the ground that the judge has not ruled according to law, if the rule to show cause be refused, or, if granted, be then discharged or made absolute, the party decided against may appeal, provided any one of the judges dissent from the rule being refused, or, when granted, being discharged or made absolute, as the case may be, or provided the court in its discretion think fit that an appeal should be allowed, provided that where the application for a new trial is upon matter of discretion only, as on the ground that the verdict was against the weight of evidence or otherwise, no such appeal shall be disallowed.

"3. The court of error, the exchequer chamber, and the House of Lords shall be courts of appeal for this purpose.

"4. No appeal shall be allowed unless notice thereof be given in writing to the opposite party or his attorney and to the Queen's remembrancer within four days after the decision complained of, or such further time as may be allowed by the court or a judge.

"5. The appeal hereinbefore mentioned shall be upon a case to be stated by the parties, (and in case of difference to be settled by the court or a judge of the court appealed from,) in which case shall be set forth so much of the pleading, evidence, and the ruling or judgment objected to as may be necessary to raise the question for the decision of the court of appeal.

"6. When the appeal is from the refusal of the court below to grant a rule to show cause, and the court of appeal grant such rule, such rule shall be argued and disposed of in the court of appeal.

"7. The court of appeal shall give such judgment as ought to have been given in the court below, and all such further proceeding may be taken thereupon as if the judgment had been given by the court in which the record originated.

"8. The court of appeal shall have power to adjudge payment of costs and to order restitution, and they shall have the same powers as the court of error in respect of awarding process, and otherwise.

"9. Upon an award of a trial *de novo* by the court, or by the court of error upon matter appearing upon record, error may at once be brought; and if the judgment in such or any other case be affirmed in error, it shall be lawful for the court of error to adjudge costs to the defendant in error.

"10. When a new trial is granted on the ground that the verdict was against evidence, the costs of the first trial shall abide the event, unless the court shall otherwise order.

"11. Upon motions founded upon affidavits it shall be lawful for either party, with leave of the court or a judge, to make affidavits in answer to the affidavits of the opposite party upon any new matter arising out of such affidavits, subject to all such rules as shall hereafter be made respecting such affidavits.

"12. Notice of appeal shall be a stay of execution, provided that within eight days after the decision complained of, or before execution delivered to the sheriff, bail to pay the sum recovered and costs, or to pay costs when adjudged, be given in like manner and to the same amount as bail in error is required to be given under the rules of this court, made on the 22d day of June, 1860, or as near thereto as may be applicable, provided that such bail shall not be necessary to stay execution in cases where the appellant is the crown, the attorney general on behalf of the crown, or the Prince of Wales, or the Duke of Cornwall for the time being.

"The foregoing rules shall come into operation and take effect forthwith, and apply to every cause, matter, and proceeding now pending."

On the 5th of November the attorney general moved for a new trial on the ground of misdirection by the lord chief baron, the verdict being against evidence as well as the weight of evidence, it being distinctly and clearly understood that the crown had abandoned their bill of exceptions and brought the matter before the court as an ordinary motion, there being no right of appeal from the decision of the court on either side, except upon a matter of law. The rule having been obtained, it came on for argument on the 17th of November, and occupied the court until Monday, the 23d. The crown relied very strongly on the evidence adduced for the prosecution, which it was said was, and ought to have been, conclusive as to the character of the Alexandra at the time of the seizure, and that the jury ought to have found for the crown. The defendants had called no witnesses, but contended that the crown had been beaten in their own case, and that the verdict ought not to be disturbed. The arguments, as it will be remembered, were very long, and the summing up of the learned judge who tried the case was not only cut up by the counsel for the crown, but very carefully and minutely dissected afterwards, contrary, as it was said by the defendant's counsel, to all precedent, as a judge had a right to the expression of his own opinion upon a case, provided he did not mislead the jury by leading them to believe that they were bound to accept that opinion as a direction how to find their verdict. The court took time to consider judgment, and on the 11th of last month judgment was delivered, the lord chief baron and Mr. Baron Bramwell being of opinion that the rule ought to be discharged, and Mr. Baron Channell and Mr. Baron Pigott thinking the rule for a new trial should be made absolute. Mr. Baron Pigott, the junior judge, having, according to the practice in such cases when the court is divided in opinion, withdrawn his judgment, the majority was left with the defendants, and the rule discharged accordingly. The crown availed itself of the rules made on the 4th of November, (as stated above,) and gave notice to the defendants of their intention to appeal, and the hearing of that appeal was fixed for to-day.

The attorney general, the solicitor general, the Queen's advocate, Mr. Locke, Q. C., and Mr. Thomas Jones appeared for the crown; and Sir Hugh Cairns, Mr. Mellish, Q. C., Mr. Karlake, Q. C., and Mr. Kemplay for the defendants.

Sir Hugh Cairns said that he had a preliminary objection to make which affected the jurisdiction of the court to hear the appeal. The court of

exchequer, after having heard the arguments upon the rule, were equally divided in opinion, but the junior judge yielding, according to the practice upon such occasions, the rule was discharged, and the proceedings in that court upon the information brought to a close. The crown had served the defendants with notice of appeal, and the question now arose under what authority was that appeal brought. Before the common law procedure acts there could have been no such appeal, as those acts apply only to personal actions commencing by writ of summons. It is said that the appeal lies under a general rule or order of the court of exchequer made on the 4th of November last year, upon an application by the crown before the rule nisi in the case had been granted. Rules first and second he would read, and call attention to rule three, which stated, "The court of error, the exchequer chamber, and the House of Lords shall be courts of appeal for this purpose." It might be remarked that it was to be regretted that a little more consideration had not been bestowed upon the rules. It was obvious that there had been an entire overlooking of what the meaning of the term "court of error" in the common law procedure act of 1854 was. The section in that act supposed to be analogous to the rule three reads thus: "The court of error, the exchequer chamber, and the House of Lords shall be courts of appeal for the purpose of this act." The rule says, "The court of error, the exchequer chamber, and the House of Lords shall be courts of appeal for this purpose"—viz., for the purpose of the appeal before mentioned. The clause was utterly unmeaning so applied—that is, that that part of the clause which contained the term "the court of error" in the common law procedure act has had a meaning quite different from the term "exchequer chamber," and a most intelligible and necessary meaning; for the common law procedure act applied not merely to the superior courts at Westminster, but to the courts of Lancaster and Durham, and might be made applicable to other inferior courts of record. As to those inferior courts the court of Queen's Bench was the court of error, and therefore the common law procedure act said, "the court of error, the exchequer chamber, and the House of Lords," as the case might be, "for the purposes of this act," which for all those various purposes shall be the court of appeal, but in this rule it was for the appeal mentioned in the clause immediately before. "The court of error" could have no meaning, introduced as it was into the third rule. Sir Hugh, having read all the above rules to the court, continued: It might be that the court of exchequer had power by a general order to create a new court of appeal, to give new rights to suitors with regard to appeal which they never had before, to order what should or should not be done by the court of appeal and by the House of Lords, and to confer upon the House of Lords and upon the court of Queen's Bench the powers which were proposed to be conferred by those rules. All that might be so, but he (Sir Hugh Cairns) would like to see the authority, for he supposed no person would say that without parliamentary authority that was a power which could have been exercised. The Queen's remembrancers act, the 21st and 22d Victoria, cap. 21, was an act to regulate the office of Queen's remembrancer, and to amend the practice and procedure on the revenue side of the court of exchequer. It recited that a certain act had been passed with regard to the office of remembrancer, &c., and then went on to say:

"And whereas it is expedient further to regulate the said office and to make other provision in relation thereto, and to the procedure on the revenue side of the said court." Of course, the preamble could not restrain the act of Parliament if there were express provisions afterwards going beyond it; and so far as there were express provisions going beyond the preamble they would be quite intelligible, and not at variance with what might be expected; but where there were no express provisions going beyond the preamble, then the preamble was for the purpose of the act to regulate the procedure on the revenue side of the court of exchequer. Passing at once to the 9th clause, it runs thus:

"Section 222 of the common law procedure act, 1852, for the amendment of defects and errors in any proceedings in civil cases, and concerning the costs and terms of such amendment, shall extend to all suits and proceedings on the revenue side of the court of exchequer."

Then follows the 10th section:

"In any suit or proceeding on the revenue side of the court of exchequer the parties may at any time before judgment, by consent and order of a judge, state any question or questions of law in a special case for the opinion of the court, without pleadings, and upon judgment thereon error may be brought as on a judgment in a special verdict, unless the parties agree to the contrary; and the proceedings for bringing a special case before the court of error shall, as nearly as may be, be the same as in the case of a special verdict, and the court of error shall either affirm the judgment or give the same judgment as ought to have been given in the court in which it was originally decided, the said court of error being required to draw any inferences of fact from the facts stated in such special case which the court below ought to have drawn."

This section, continued Sir Hugh, was an incorporation of two sections of the common law procedure acts—the one, section 42 of the act of 1852, and the other, section 32 of the act of 1854. Parliament thus treats the court of exchequer as one court, and the court of appeal or the court of error as the other. The legislature confers on the suitors the right of bringing error upon a special case before the court of error, and it points out what the court of error shall do with reference to that case. The 11th clause provides that, in the absence of "any agreement as to the costs of the special case, the costs shall follow the event." Sir Hugh Cairns then read the subsequent sections, and, coming to the 18th and following sections, said that he found the provisions of the common law procedure act, 1852, as to error in the proper and strict sense of the term, the proceedings which formerly commenced by writ of error, and those provisions had been adopted and applied by Parliament to the revenue side of the court of exchequer. The 18th section of the Queen's remembrancer's act stated that no judgment on the revenue side of the exchequer should be reversed or avoided unless error be commenced or brought and prosecuted with effect within six years, with a proviso with regard to parties under disability. That section answered to the 146th and 147th sections of the procedure act of 1852. The 19th section was:

"A writ of error shall not be necessary or used in any suit or proceeding in error on the revenue side of the court of exchequer, and the proceeding to error shall be a step in the cause, and shall be taken in manner and subject as to such terms and conditions as to giving bail," &c.

That was the same as the 148th section of the procedure act, with a special interpolation authorizing the barons of the exchequer to make a rule as to giving bail or surety. Then, the 20th clause was that any party might tender a bill of exceptions on a trial arising on the revenue side of the court of exchequer, and the like proceedings might be taken as between subject and subject. Up to this point the legislature had taken up every proceeding with regard to the courts of error, minus one—all but that one proceeding which the procedure act, 1854, provided in the event of rules for new trials being refused or being made absolute by the court. Now, the 26th section enacts:

"It shall be lawful for the lord chief baron, and two or more barons of the court of exchequer, from time to time, to make all such rules and orders as to the process, practice, and mode of pleading on the revenue side of the court, and as to the allowance of costs, and for the effectual execution of this act, and the intention and objects thereof, as may seem to them necessary and proper; and also from time to time, by any such rule or order, to extend, apply, or adapt any of the provisions of the common law procedure act, 1854, and any of the rules of pleading and practice on the plea side of the said court, to

the revenue side of the said court, as may seem to them expedient for making the process, practice, and mode of pleading on the revenue side of the said court as nearly as may be uniform with the process, practice, and mode of pleading on the plea side of such court."

The act was divided into two parts. Referring to the first part, power was given to three or more of the barons to make rules. It did not require the whole court. The part of the court could not be greater than the whole. What was the meaning of the first part of the section? That they (the barons) might regulate the internal arrangements with the four corners of their own court; they were absolute as to the process, practice, and mode of pleading; they could not create new courts; they could not go outside their own court, and give to suitors rights external to their court; they could not say they ordained that the privy council, the House of Lords, and the exchequer chamber should hear appeals from their own court. Their jurisdiction might be termed territorial; they were masters at home, and there only. After discharging their duties in their own court, in hearing and disposing of a case, they were *functi officio*; and as to the present case, it had escaped from them, and there was an end to their control over it, as over all the cases in this court in a similar position. There was a matter, looking at the outside of the court, upon which they might make a rule, because the act of Parliament had provided for error. It had contemplated bail in error—error shall be a stay of proceedings upon bail being given as the barons of the exchequer should order. But they could not make rules as to who shall have error and who not, and where the error should be heard. Now, take the words in the second part of the section, "and also from time to time by any such rule or order" (that meant a rule or order made by the majority of the court) "to extend, apply, and adapt any of the provisions of the common law procedure acts to the proceedings on the plea side of the court to the revenue side of it." To what were they to extend, apply and adapt? Why, to the revenue side of their own court. Take the words following on in the section:

"As may seem to them expedient for making the process, practice, and mode of pleading on the revenue side of the said court as nearly as may be uniform with the process, practice, and mode of pleading on the plea side of such court."

In the rules made prior to the 4th of November, 1863, every stage in a suit is taken up step by step, and is dealt with with extra care and propriety, and great attention was paid to the power and jurisdiction given to the court, but on the 4th of November, 1863, contrary to everything that had ever been done before, legislation was taken up by the court, and those provisions laid down under the guise of rules which might be introduced into an act of Parliament, but which could not find their justification in any authority short of an act of Parliament. Was it the practice or pleading or mode of proceeding in the exchequer to say that a suitor in that court, against whom a decision had been pronounced, should have an appeal to another court, and the exchequer to say what that other court shall be? The defendants had the verdict, and the order of the court discharging the rule obtained by the crown, and all they had to ask of the exchequer was for the performance of the ministerial act of entering up judgment, which in strictness could not be stayed by any of the after proceedings. They were now summoned before this court to show cause why their verdict should not be reversed. It was a misconception for the crown to suppose that there was in this case any appeal, and the defendants now asked to have the case struck out of their lordships' paper.

The ATTORNEY GENERAL, on behalf of the crown, said if the legislature had given the court of exchequer power to make the rules, there was nothing extraordinary in the rules made. The second part of the 22d section gave the barons of the exchequer power to extend the provisions of the procedure acts to the matter now before the court, and also from time to time by any such rule

or order to extend, apply, or adapt any of the provisions of the common law procedure acts to the revenue side of the court. Now, what was it that Parliament had authorized to be done? Not that the court of exchequer should legislate by giving jurisdiction to courts of appeal, or creating new courts of appeal, but to extend, adapt, or apply any of the provisions contained in certain acts which Parliament had already passed, and which were there mentioned, to the revenue side of the court, and the sole question was whether that which had been done was or was not an extension or application of certain provisions of these acts to the revenue side of the exchequer. If it be that, then it was clearly within the powers granted by Parliament. Some of the observations on the other side depended upon the assumption that within the meaning of the act of Parliament procedure in error from the court of exchequer was no part of the process, practice, and pleading of the revenue side of that court. Procedure in error was and must be intended to be within the meaning of those words. The *formula* to introduce the first common law procedure act runs thus: "An act to amend the mode of process, practice, and mode of pleading in the superior courts of common law at Westminster," and so on. The preamble was, "Whereas the process, practice, and mode of pleading in the superior courts of common law at Westminster may be rendered more simple and speedy, be it enacted," &c. The whole of the clauses in that enactment are declared by that recital to be enacted for the purpose of rendering more simple the process, practice, and mode of pleading in the superior courts at Westminster, an expression which was intended to comprehend all proceedings in error, though those proceedings might be carried to the House of Lords, which was not itself a superior court of common law at Westminster. The clauses as to error are from 154th to the 166th of the common law procedure act, 1852, and under that designation of "the process, practice, and mode of pleading in the superior courts of common law at Westminster" all the subject-matter of clauses which must be referred to were included. The first clause on error is the 148th; the 154th section speaks of a certain memorandum alleging error which is to be entered, and the form in which that was to be done. Then the 155th section enacts that the judgment roll is to be brought into court instead of the transcript; the record which passed through the courts of error as the record of the court from which the error is brought. It was the record of the court of exchequer which goes up to the court of error, and ultimately the court of exchequer would enter up the judgment awarded. The 156th clause enacts:

"That courts of error shall have power to quash the proceedings in error in all cases in which error does not lie, or when they are taken against good faith, or in any case in which proceedings in error might heretofore have been quashed by such courts, and such courts shall in all respects have such jurisdiction over the proceedings as over the proceedings in cases commenced by writ of error."

Other sections were read by the learned attorney general, but no comments were made upon them. He then pressed their lordships to consider the 155th, 156th, and 157th sections, which related to the manner in which the case was to be brought into error, whether the exchequer chamber or Parliament, and there to be dealt with in error, and to the manner in which the court of error was to give its judgment, and the effect of that judgment when given, and the power which the court of error was to exercise, and that was part of the course of procedure introduced by the act for the purpose, as recited in the preamble, "of amending the process, practice, and mode of pleading in the superior courts of common law at Westminster;" and it was plain that a procedure before the court of error in Parliament, where the record was brought from one of the superior courts at Westminster, was regarded within the meaning of those acts as part of "the process, practice, and pleading of the superior courts."

Lord Chief Justice EASE.—Will you forgive me for saying that a writ of error was heretofore a new action in law? Section 148 bears on this—"A writ of error shall not be necessary or used in any cause, and the proceeding to error shall be a step in the cause."

The ATTORNEY GENERAL said he had not intended to overlook that clause, and it was very important that its effect should be properly considered. The words, "the proceeding to error shall be a step in the cause, and shall be taken in manner hereafter mentioned," were a clue to the whole matter, and confirmed what he (the attorney general) had stated, that it is regarded as being in a certain sense a proceeding in the court and in the cause, although, for the purpose of correcting the error of the court in the cause, the record of that court was brought up before a superior tribunal, and then the error corrected and the record returned with the correction made; but it was still a cause such as it was before—a cause on the revenue side of the court of exchequer, a cause on the plea side, or a cause in the Queen's bench. It was still a matter belonging to the courts of common law, and it was not because subjects got justice done by the correction of their errors that it therefore ceased to be of that nature within the meaning of the act. A proceeding in error was a step in that cause, and that reconciled the whole with the preamble, and showed that the legislature did not stultify itself when in the act it spoke of amending the process, practice, and pleading in the superior courts of common law at Westminster. It always was, from first to last, a record depending in the court of exchequer, and this was only a particular manner which Parliament had pointed out of making it a right record. With regard to the 19th clause of the Queen's remembrancer's act, that, upon examination, would prove very fatal to the arguments used upon that act by his learned friend Sir Hugh Cairns. It said that "a writ of error shall not be necessary or used in any suit or proceeding in error on the revenue side of the court of exchequer, and the proceeding to error shall be a step in the cause, and shall be taken in manner and subject to such terms and conditions, as to giving bail or security, as may be directed by any rule or order made by the barons under this or any other act or acts of Parliament authorizing the same, provided that nothing herein contained shall invalidate any proceeding already taken by reason of any writ of error issued before the commencement of this act, or before such rules and orders came into effect." This was an independent and substantive enactment, and made no reference whatever to the common law procedure act of 1852, and, but for the orders made under the authority now disputed—the authority of the 26th section—by the court of exchequer, would not be applicable to a writ of error under the 19th section. The section distinctly recognizes the proceedings in error on the revenue side as being a step in the cause, and afterwards, in the 26th section, words are found saying that the provisions of the common law procedure act may be extended by the court to the revenue side of the court.

Lord Chief Justice COCKBURN. This is not a proceeding in error that we are dealing with now; it is a proceeding by way of appeal. The 19th section does not apply at all to the proceeding before us now.

The ATTORNEY GENERAL. It will assist us in seeing the construction to be placed upon the power which we find in the 26th section. Now, the court of exchequer have considered that the power was communicated to them. The learned attorney general here remarked upon the rules made by the court of exchequer in June, 1860. By the 101st the court ruled thus: "The several provisions contained in the 154th, 155th, 156th, and 157th sections of the common law procedure act, 1852, when applicable, shall extend and be applied in like cases on the revenue side of the court;" the 103d also extends sections 159 to 166, and it was for that reason, said the attorney general, I read to your lordships the 155th, 156th, and 157th sections of the common law procedure act, 1852, which relate to the mode in which error is to pass through the court

of exchequer chamber and the House of Lords, what is to be done in those courts and what is to be the consequence of what they do. There is not a word said in the Queen's remembrancer's act which says how the clauses 155, 156, 157 of the procedure act shall be applied; and, therefore, it would be entirely a *casus omisus* if it were not within the power granted to the court of exchequer in the 26th section. The exchequer, under this power, have declared the sections just mentioned, which relate entirely to what is to be done in the court of error, shall be applicable, and if it should be held by the present court that that was *ultra vires*, the crown must submit to that decision, and it must be taken as established that the old process of error must apply in every such case. It was a fallacy to say that the court of exchequer had taken upon themselves to legislate. The court of exchequer had interpreted the powers which Parliament had given to it to extend *quoad hoc*, to enable it to say that henceforth these provisions of the common law procedure acts were to be applicable to causes upon the revenue side of the court of exchequer. Apart from whether there is any obstacle to that being done, the thing is to be understood that those particular clauses which relate to the subject are merely transcripts from the common law procedure act of 1854. Looking at and examining the clauses, (the 35th in particular,) it will be seen how impossible it is to separate these matters from the procedure of the court of exchequer itself. The 35th section enacts, "In all cases of motions for a new trial upon the ground that the judge has not ruled according to law, if the rule to show cause be refused, or, if granted, be then discharged or made absolute, the party decided against may appeal, provided any one of the judges dissent from the rule being refused, or, when granted, being discharged or made absolute as the case may be, provided the court in its discretion think fit that an appeal should be allowed," with a proviso that there is to be no appeal upon matters of discretion as to where the verdict is against evidence. Every single condition; said the attorney general, there mentioned, is a condition to be fulfilled in the court of exchequer. It is in the court of exchequer that the motion is made, on the ground that the judge has not ruled according to law. It is in the court of exchequer that the rule to show cause is refused, or granted, or discharged, or made absolute. It is in the court of exchequer that the judges dissent, whose dissent must have given rise to the appeal, and a discretion is exercised by that court as to whether the court think fit that an appeal shall be allowed. Down to that point at all events, beyond the possibility of dispute, every — that constitutes the *locus standi* of the appellant arises out of that which is matter of process and practice in the court of exchequer in the most exact and literal sense of those words.

LORD CHIEF JUSTICE COCKBURN. What strikes me most forcibly, and presents to my mind the most serious difficulty in the matter, is this: if it was intended to give an appeal, as the legislature clearly did give an appeal, in all civil causes from one of those three courts of exchequer chamber, why should not the legislature have expressly said so, and why should it have left it to that inferior tribunal to determine whether or not there should be an appeal from it to the court of exchequer chamber?

THE ATTORNEY GENERAL. Upon that and many other points the legislature thought fit to leave discretion to the court of exchequer to determine whether there were good reasons for or against extending any of the provisions of the common law procedure act to the cases on the revenue side of the court. If we had not the right of coming by way of appeal to this court upon a bill of exceptions, then it might have been said that it was a matter of substance and not of form—that it was not a mere question of the mode of procedure, whether we should come in the manner in which the common law procedure act in the 35th section had said that other people might come. But it becomes a different question the moment the legislature has said that we shall have the ordinary right of coming by bill of exceptions. Then, inasmuch as the common

law procedure act only gives a different form of appeal by the 35th section upon matters of law, that is to say, the same matters which we should have a right to raise by a bill of exceptions, the common law procedure act having considered that the other form, that is, the power of appealing upon a motion for a new trial upon matters of law, would, in many cases, be a more convenient mode of arriving at the same result, and asserting the same right as the bill of exceptions, the legislature considered that in these revenue cases the subject or the crown had a right to appeal upon a matter of law. It did not think it necessary to determine upon the face of this act whether or no the alternative mode introduced in civil proceedings by the common law procedure act is the more convenient mode of procedure in raising the same question of law by way of appeal from a refusal of a rule or from granting one for a new trial, and whether it should be introduced in revenue causes, because there were peculiarities in the nature of revenue causes which it thought would make it expedient to leave a very large discretion to the court of exchequer to determine what part of the new provisions introduced by the common law procedure act should be applied to these causes; but if this portion of these new provisions was applied, that was not giving a right of appeal which was not existing before; it was merely applying for the same purpose other means as being more convenient means of raising the same question of law which had been raised by way of a writ of error. Where you have the right to go by a bill of exceptions, it is merely change of procedure to grant the appeal the benefit of which we are now claiming. Suppose your lordship had found in the act of Parliament clearly these words, "All the provisions of the common law procedure act of 1854 shall be applied to the revenue side of the court of exchequer," would there have been the slightest difficulty in the interpretation of those words—would it not have been perfectly clear that those clauses were as capable of being applied to the revenue side of the court of exchequer as any others in the act? What is the meaning of applying and extending them to the revenue side? The meaning is, cases on the revenue side shall be subjected to and regulated by these provisions. After the attorney general had answered at some length several questions which had been put to him by the court, he went on to say that the 35th section of the act operated upon the cause while it was in every sense still in the hands of the court of exchequer. In all cases of motions for a new trial if certain things be done, the party decided against may appeal, provided any one of the judges dissent from the rule being refused, &c. The 37th, 38th, and 39th clauses all go on to state certain things which are to be done still in the court of exchequer. Could there be a doubt that the operation and incidence of clauses 35, 37, 38, and 39 are upon the cause, while it is still, to all intents and purposes, in the court of exchequer? The present case is a record from the court of exchequer from first to last; it never ceases to be so, and when final judgment is passed, execution will be by that court. It comes up from the court of exchequer to be reviewed and have the errors corrected, and in that sense only it is in the court of error.

LORD CHIEF JUSTICE COCKBURN. That is now equally so with regard to a bill of exceptions, and yet when a cause comes up upon a bill of exceptions it is governed by the practice of the court of error.

THE ATTORNEY GENERAL. Yes, but the record from first to last is a record of the court of exchequer, a record of a cause depending upon the revenue side of the court, which record, no doubt, is removed for a time from that court to the court of error, but it does not cease for an instant of time to be a record of the court of exchequer, from which it came, and to which it must return. Therefore I say, that if the act of Parliament had said these clauses shall extend to the revenue side of the court of exchequer, the working out of them would be the easiest thing in the world. In the first place, the thirty-fifth clause would

attach, and that would tell us that when the record had at no time left the court of exchequer upon certain conditions to be determined in the court of exchequer, the right of appeal would arise. The two or three subsequent clauses say what, while it is still in the court of exchequer, is to be done, that right having attached. It is still, while in the court of exchequer, an appellable cause, and being so, certain things will determine whether the right has arisen or not, and what is to be done when it does arise to transmit the cause from the court of exchequer to the court above. Therefore, if the words had been "These clauses of the common law procedure act, 1854, shall extend and apply to the revenue side of the court of exchequer," there would not have been the slightest difficulty in the interpretation of these words. The legislature authorizes the court of exchequer to extend, apply or adapt any of the provisions of this act, which, as I say, means "all or any," to the revenue side of the court of exchequer, "and any of the rules of pleading and practice on the plea side of the said court to the revenue side of the said court, as may seem to it expedient for making the process, practice, and mode of pleading" (words which in this act mean procedure) "on the revenue side of the court, as nearly as may be, uniform with the process, practice, and mode of pleading on the plea side of such court." Now the legislature had extended, by the common law procedure act, to the plea side of the court the procedure which is contained in the clauses which have been referred to, and which, in certain events, and upon certain conditions happening in the inferior court, give a right of appeal, and prescribe the mode in which that appeal shall be pursued, instead of a bill of exceptions. The object of the power given in the 26th section is to enable the court of exchequer to assimilate, as far as they think fit to do so, the whole of the proceedings in revenue causes to the proceedings upon the plea side, part of which under the provisions, part of which under the provisions and express enactments of the common law procedure acts are referred to as the part which the court of exchequer may think it expedient to adopt.

LORD CHIEF JUSTICE ERLE. It appears to me that the court of exchequer have the discretion to adopt so much of the common law procedure act of 1854 as they think expedient. As far as I can see, in the court of exchequer they have not given to them the right of stating a special case between the parties and going to a court of error.

THE ATTORNEY GENERAL. I think you will see that earlier sections of this act deal with matters upon which it was not thought expedient to give any discretion to the court of exchequer. It is in the 10th section.

LORD CHIEF JUSTICE COCKBURN. The 10th section gives it specially. That is what makes such an impression on my mind. The common law procedure act gives a right of appeal upon a special case; then the act goes on to give an appeal in the case of misdirection, &c. This act of Parliament introduces the enactment of the common law procedure act with regard to the special case, and I should have expected it to go on and say that there should be an appeal.

THE ATTORNEY GENERAL, having replied to two or three questions put by the court, went on to say that the legislature had said that in all matters of procedure the court of exchequer should be the judge. There might be difficulties as to some matters which have not been dealt with, and which required consideration by the court; and, with regard to those matters, the court of exchequer should judge whether it is expedient to go further than this act has gone towards a complete assimilation of the revenue side to the plea side of the court of exchequer. That court was to have the power to determine that; and for that purpose it might extend or apply all or any provisions of the common law procedure act; and, unless those provisions were such as in their nature could not be applied, if the court had said one of them should be applied, nobody could say that it had not been so applied by act of Parliament. My argument, continued the learned attorney general, comes to this: the whole is expressed

by the words "extend or apply any of the provisions of these acts to the revenue side of the court." Such words occurring in the act of Parliament itself could have been, without the least difficulty, applied in point of interpretation to the clauses of the act of 1854 with which we are dealing, the power being general, and the object being the assimilation of the two sides of the court. It was not meant so to limit the power given to the court by words not in the clause as to put it out of their power to do something without which it would be impossible that the two sides of the court could be thoroughly assimilated together. If the court should accede to this objection, we are, I apprehend, entirely remediless. But if, on the other hand, you should overrule it, there is another tribunal, which, if the objection is well founded, would of course be enabled to give effect to it. I do not mean to say that there is any reason, if you thought the objection to be well founded, you should not give effect to it; no doubt it would be your duty to do so; but if you were not well satisfied upon the matter, I think it would be some satisfaction to your lordships to know that the parties on the other side would have the same objection open to them in another place. The attorney general, in concluding his argument, said, what seems to me to cause the fallacy in my learned friend's argument is the not attending to the distinction between the exercise of a parliamentary power to determine whether particular enactments of Parliament shall apply to a particular class of causes or not, and the exercise of a power upon legislative subjects which undoubtedly would be beyond the proper jurisdiction of the particular court if Parliament had not given them to it.

Sir HUGH CAIRNS replied upon the attorney general's argument; and at the termination of the reply,

The ATTORNEY GENERAL claimed the right, on the part of the crown, to the last word.

After their lordships had consulted together,

The Lord Chief Justice COCKBURN said: The court will hear you, Mr. Attorney General; but we wish to add, in order that this may not be considered as establishing a practice, that it is laid down in the case of "O'Connell and others against the Queen," in the House of Lords, that it is not a necessary incident to cases in which the crown is defendant in error that the counsel for the crown is to have the last word. But we think it fully open to us in the exercise of our discretion to hear you; and, therefore, we will hear you in reply.

The ATTORNEY GENERAL having been heard in reply,

The COURT announced that judgment would be given on Monday morning.

THE ALEXANDRA CASE.

THE EXCHEQUER CHAMBER, FEBRUARY 8.

Present: the lord chief justice of England, the lord chief justice of the common pleas, Mr. Justice Williams, Mr. Justice Crompton, Mr. Justice Willes, Mr. Justice Blackburn, and Mr. Justice Mellor.

The Attorney General vs. Sillem and others.

Their lordships, at the sitting of the court this morning, proceeded to give judgment upon the preliminary objection taken on Saturday by Sir Hugh Cairns, on behalf of the defendants, to the jurisdiction of the court to hear the appeal.

In accordance with the practice of the court the junior judge present first delivered judgment.

Mr. Justice MELLOR said: After a careful consideration of the arguments which were urged by the attorney general in this case, and with every desire to support the validity of the rules made by the court of exchequer on the 4th of

November last, under the provisions of the 22d and 23d Victoria, cap. 21, intitled "An act to regulate the office of Queen's remembrancer and to amend the practice and procedure on the revenue side of the court of exchequer," I am compelled to come to the conclusion that the rules 1, 2, and 3, under the authority of which the present appeal is brought, are not warranted by that statute, and that the claimants are entitled to succeed upon the objections which were made by Sir Hugh Cairns to our proceeding with the cause. In order to sustain the right to appeal, the attorney general was driven to contend that the legislature, in providing for the amendment of the "practice and procedure on the revenue side of the court of exchequer," had incidentally delegated to the lord chief baron and two or more barons the power to determine whether or not an appeal should lie from a judgment of their own court, in certain cases, to the court of exchequer chamber and the House of Lords. The suggestion is of a power so unusual that it appears to me to require a clear and unambiguous expression of the intention of the legislature that such should be the case in order to support it. In the common law procedure act of 1852 the legislature, after making many express alterations and amendments in the process, practice, and mode of pleading in the superior courts of law, did, by section 223, confer upon the judges or any eight or more of them, of whom the chiefs of each of the said courts should be three, power from time to time to make all such general rules and orders for the effectual execution of the said act and of the intention and object thereof, &c., "as in their judgement might be necessary and proper;" but it gave no larger power than was necessary in order to enable the judges to make such rules and orders as were incidental to the complete carrying into effect of the alterations and amendments made by the legislature itself. The common law procedure act of 1854, which was for "the further amendment of the process, practice, and mode of pleading in and enlarging the jurisdiction of the superior courts of common law," was framed upon similar principles, and by section 32 it expressly gave to litigants the right to bring error on a special case in the same manner as on a special verdict. By section 34, in case of rules to enter a verdict, or for a non-suit upon a point reserved at the trial, it gave the power to appeal against the judgment of the court in refusing, discharging, or making absolute such a rule. By section 35, in cases of misdirection, it conferred a similar right of appeal from the judgment of the court in the event of one judge dissenting, or the court, in its discretion, granting permission to appeal; and by section 36 it enacted that the court of error, the exchequer chamber, and the House of Lords, should be courts of appeal for the purposes of that act. By the 97th section it gave power to the judges, under the like conditions as in the procedure act of 1852, to make several general rules and orders for the effectual execution of the act. I have referred to several sections of the common law procedure act of 1854, because they contain the provisions which the court of exchequer has by the rules of the 4th of November assumed to extend, apply, and adapt, in order to provide a remedy by way of appeal to the particular circumstances of the present case. Upon the passing of the common law procedure act of 1852 the judges did make general rules regulating the pleading and practice of the superior courts of common law, in conformity with the power conferred upon them by that act.

In the act of the 22d and 23d of Victoria, chapter 21, now under consideration, the legislature appears to me to have proceeded on similar principles—namely, to have provided for certain cardinal alterations in the practice and procedure on the revenue side of the court of exchequer, and to have given new but special and limited rights of appeal to litigants, and to have left the details necessary to carry them into effect to the discretion of the judges of the court of exchequer. By section 10 the act enables litigants, by consent and by order of a judge, to state any question of law in a special case for the opinion of the court without pleadings, and upon a judgment thereon error may be brought as

on a judgment on a special verdict, unless the parties agree to the contrary, and it provides that the proceedings for bringing such special case before the court of error shall be the same as in the case of a special verdict, except that the court of error is to be required to draw inferences of fact, which the court below ought to have drawn. By section 11 the costs of the proceedings are regulated. By section 12 an appeal is given to a court of error from a decision of the court of exchequer in appeals under the provisions of the succession duty act, 1853, and by section 13 it is expressly enacted that such appeal shall lie to the court of error in the exchequer chamber, and that the decision of the said court of error shall be subject to appeal to the House of Lords. By section 15 further provision is made for bringing error on special cases to be stated with reference to legacy duty, and by section 16 the powers of the 1st of William IV, chapter 22, and sections 46, 47, 48, and 49 of the common law procedure act, 1854, are expressly incorporated into that act. By section 19 it is expressly provided that a writ of error shall not be necessary, and that the proceeding to error shall be a step in the cause. By section 20 power is expressly given to either party to tender a bill of exceptions on the trial of any issue, and section 21 provides for the costs of all suits, informations, and other proceedings. By these sections a power to state a special case, a power of appeal in certain cases, and a power to each party to tender a bill of exceptions on the trial, are carefully and specially provided for, but no appeal is given against the judgment of the court on granting, refusing, making absolute, or discharging a rule for a new trial, or to enter a non-suit, or a verdict upon a point reserved at the trial. There may be, and probably are, considerations which might render such a power inexpedient in revenue suits, and it can scarcely be imagined that the propriety of giving such a power escaped the consideration of the legislature when the special provisions above referred to were framed. The omission of such a power, while other provisions are made for appeal and writs of error, leads me to the conclusion that this larger power of appeal was intentionally omitted from the act. The answer attempted to be given to this view is, that by section 26 power is given to "the lord chief baron and two or more barons," not only to make rules and orders as to the process, practice, and mode of pleading on the revenue side of the court for the effectual execution of the act, but also "from time to time, by any such rule or order, to extend, apply, or adapt any of the provisions of the common law procedure acts of 1852 and 1854, and any of the rules of pleading and practice on the plea side to the revenue side of the said court as may seem to them expedient for making the process, practice, and mode of pleading on the revenue side of the court as nearly as may be uniform with the process, practice, and mode of pleading on the plea side of the said court." It is argued that this clause gives an absolute discretion to "the lord chief baron and two or more barons" to incorporate with the act under consideration any provision of the two common law procedure acts of 1852 and 1854, whether it gives new remedies to the subject, or enlarges the jurisdiction of the courts, or gives a new authority to the court of error in the exchequer chamber and to the House of Lords, or only alters or amends the process, practice, and mode of pleading in the superior courts of common law. Surely it is more reasonable to consider that a power which is to be exercised "from time to time" is more applicable to the extension, application and adaptation of such provisions of the common law procedure acts as refer to process, practice, and pleading in their ordinary sense, and which may well be altered and amended from "time to time," than to provisions which confer new remedies and enlarged jurisdiction. This is made more apparent when it is considered that the reference to the provisions of the common law procedure acts is immediately followed by the words, "and rules of pleading and practice on the plea side of" the said court as may seem to them expedient for making the process, practice, and mode of pleading on the revenue side of the said court as nearly as may be

uniform with the "process, practice, and mode of pleading" on the plea side of the said court. I can readily understand that the legislature may have intrusted "to the lord chief baron and two or more barons" power to make rules and orders, and to apply and adapt such provisions of common law procedure acts and such rules of pleading and practice as affect "process, practice, and the mode of pleading," so as to carry into effectual operation the alterations in the practice and procedure of the revenue side of the court of exchequer introduced by the act. But I cannot understand the policy of intrusting to the lord chief baron and two or more barons of that court the power to determine whether or not the court of error in the exchequer chamber and the House of Lords shall have jurisdiction to entertain an appeal against a judgment of the court of exchequer in granting, or refusing, or discharging a rule for a new trial. The limited power to make rules and orders conferred upon the judges by the common law procedure acts required for its exercise a quorum of eight, of which the three chiefs of the courts were to be members; but, according to the argument of the attorney general, the present act has conferred this most unusual and unprecedented authority to legislate for the court of error and the House of Lords upon a bare majority of the barons of the exchequer. I cannot adopt that view; and inasmuch as I cannot consider the rules of the 4th of November as warranted by the statute 22d and 23d of Victoria, I come to the conclusion that we have no jurisdiction to proceed with the appeal, and that it must therefore be dismissed. If I am wrong in the opinion I have formed, and the rules are authorized by the statute, the House of Lords will, by virtue of the very rules in question, have power to give the judgment which we ought to have given.

Mr. Justice BLACKBURN.—In this case the defendant in a case on the revenue side of the court of exchequer has obtained a verdict at the trial; a rule to set aside that verdict and grant a new trial on the ground of misdirection has been obtained in the court of exchequer, and, after argument, discharged. The attorney general has come to this court, treating it as a court of appeal, from the court of exchequer on this matter, with the object that we should inquire into the grounds of the decision; and, if satisfied that the court of exchequer ought to have made the rule absolute, that we should now do so, and set aside the verdict obtained for the defendants. The defendant has objected to our jurisdiction to entertain the cause, contending that we are not a court of appeal from the exchequer on this matter; that the decision of the court of exchequer is final, and that he has a right in point of law to retain his verdict undisturbed. I am, I think, as a judge, bound to form my opinion on this as a matter of law, and to deliver judgment according to what I think, without inquiring whether the result as affecting this particular case is satisfactory or not; and after considering the case carefully, I have come to the conclusion that the defendant is right on this point, and that we have no power to interfere with the verdict. The whole question depends upon the construction of the 22d and 23d Victoria, cap. 21. That act does not itself give the power of appeal, but it contains a section (the 26th) which gives power to the lord chief baron and any two or more barons of the court of exchequer from time to time to make all such rules and orders as to the process, practice, and mode of pleading on the revenue side of the court, and as to the allowance of costs, and for the effectual execution of this act and the intention and objects thereof as may seem to them necessary and proper; and also from time to time by any such rule or order to extend, apply, or adapt any of the provisions of the common law procedure act, 1852, and the common law procedure act, 1854, and any of the rules and practice on the plea side of the said court to the revenue side of the said court as may seem to them expedient for making "the process, practice, and mode of pleading on the revenue side of the said court as nearly as may be uniform with the process, practice, and mode of pleading on the plea side of such court." In intended pursuance of this power rules have been made in last Michaelmas term,

of which the following seem to me material: By the second rule an appeal is allowed in such cases as the present; by the third, the exchequer chamber and the House of Lords are constituted courts of appeal for that purpose; by the seventh, it is prescribed that the court of appeal shall give such judgment as ought to have been given in the court below; and by the eighth, the court of appeal shall have power to adjudge payment of costs and to order restitution, and they shall have the same powers as the court of error in respect of awarding process and otherwise. If the chief baron and barons of the exchequer had power given them by the statute to make enactments to the effect just stated, then, no doubt, the appeal lies, and we ought to hear it. Each of the rules I have above quoted is a transcript of a provision in the common law procedure act, 1854, by sections 35, 36, 41, and 42, of which act these powers are given to the House of Lords and the court of exchequer chamber in all civil suits between subject and subject, including those that originate on the plea side of the exchequer, as well as those originating in the Queen's bench, common pleas, common pleas of Lancaster, and the other courts of record to which the common law procedure act of 1854 applies. And if the true construction of the 22d and 23d of Victoria, cap. 21, sec. 26, is that the lord chief baron and two or more barons can apply any of the provisions of the common law procedure act, 1854, to all suits which originated on the revenue side of the court of exchequer at all stages after the litigation has passed out of the court of exchequer, as well as while still in the court of exchequer, no doubt that power has been exercised. Certainly a power so extensive as this is not one which one would expect to find given to the judges of any court. The regulation of the process, practice, and mode of pleading in any court involves a great many questions of detail, and therefore may properly be delegated by the legislature to some one; and when it is delegated at all, the power is naturally confided to the judges of that court. But it seems highly improbable that the legislature should intend to delegate to any one a discretionary power to determine whether the exchequer chamber and the House of Lords should or should not have a new jurisdiction which they had not before to prescribe to the exchequer chamber and the House of Lords how they should exercise that jurisdiction, and to give to the exchequer chamber and the House of Lords new powers of awarding process to enforce this jurisdiction. Whether these things should be done or not is a question of principle which the legislature ought to determine for itself. Still less likely is it that they would delegate this power to the judges of one court to be exercised from time to time. It was perfectly competent for the legislature to do so; but, before construing the act in such a way as to produce this startling result, we ought to see the intention to do so pretty clearly expressed. Now, section 26, in terms, gives power to the barons to apply the provisions of the two common law procedure acts to the process, practice, and mode of pleading on the revenue side of the court of exchequer, with the purpose of making it as nearly as may be uniform with the process, practice, and mode of pleading on the plea side of the court of exchequer. These words seem to me to show an intention to confine the power to the process, practice, and mode of pleading in that court, and while the cause is before that court. I do not think that, in any fair and ordinary construction of language, the judgment of the House of Lords reversing or affirming the judgment of a court below, or the award of process by the House for the purpose of enforcing their judgment, can be considered part of the process, or practice, or mode of pleading of that court below. I think that it would be a great strain upon the words to construe them so as to include such matters in them; and, as I have already said, I think that it is so improbable that the legislature meant to include them in the power given to the lord chief baron and the barons that the intention ought to be clearly shown.

Hitherto I have only referred to the 26th section, and reasoned as to its construction from the terms of that section alone; but when we look at the whole act of the 22d and 23d of Victoria, chap. 21, and construe section 26 as a part of the whole statute, I think that, according to the ordinary rules of construction of a statute, it becomes clear that the legislature did not intend to give the power of appeal in cases on the revenue side of the exchequer. Before the common law procedure act of 1852 a writ of error might issue to remove the record of a cause in the exchequer, whether it was on the plea side or the revenue side of that court; and the court of error might examine into any errors apparent on the record, but nothing else. In suits between subject and subject a further power had been given to tender a bill of exceptions and thereby to annex to the record a statement of the direction of the judge to the jury, and thereby to bring any alleged misdirection before the court of error; but that power had not been given in suits in which the crown was a party, and, consequently, not in proceedings on the revenue side. The act of 1852 made many alterations in the form of the writs of summons and execution, and other matters, properly called process, and also in the practice and also in the mode of pleading; and it also contained a series of enactments, beginning with section 146, as to error, and the manner in which, after error has been brought, the proceedings are to be conducted in the court of error. The attorney general argued that, because the preamble of the act of 1852 recited that it was expedient that the process, practice, and mode of pleading of the superior courts should be rendered more simple and speedy, therefore the enactments relating to error in that act must relate to process, practice, or mode of pleading. I think Sir Hugh Cairns gave the true answer when he said that in all acts were many provisions going beyond the scope of the preamble, which merely pointed out the principal object of the legislature. He also argued that there was a necessity for the more extensive construction of section 26, in order to work the provisions as to the mode of proceeding in error. I think this is not so. In the 22d and 23d of Victoria, cap. 22, by section 18 the legislature made an enactment equivalent to sections 146 and 147 of the common law procedure act of 1852; but when they come to section 148 there is a difference made which I think is very important. By the common law procedure act, 1852, section 148, it is provided that "a writ of error shall not be necessary, or used in any cause, and the proceeding in error shall be a step in the cause, and shall be taken in manner hereinafter mentioned." The 19th section of the 22d and 23d of Victoria is in the same precise words till it comes to the manner in which error shall be taken—that is, to be "in manner and subject *as* (a word, I presume, inserted by a clerical error) to such terms and conditions as to giving bail or security as may be directed by any rule or order made by the barons under this or any other act," &c. It seems to me that the express power here given to the barons to regulate by rule the manner in which error shall be taken, not only puts an end to the last-mentioned argument of the attorney general, but also affords a strong argument that the legislature did not suppose that the power to do so was included in the power given by section 26. Again, the common law procedure act of 1854, by section 32, allowed error to be brought upon a special case. The legislature in the 22d and 23d of Victoria, chapter 21, section 10, enacts the same thing in so many words, and in section 20 the power to tender a bill of exceptions is expressly given. We find the legislature providing by express enactment for error on a special case, for making error a step in the cause, and for a bill of exceptions. The power of appeal was created by the act of 1854, section 35, and those following it. It is a different kind of proceeding from error, and it is nowhere expressly mentioned in the 22d and 23d of Victoria, cap. 21. There were four matters, and, as far as I know, only four, in which the mode of questioning in a court of error the decision of the exchequer on a matter arising on the plea side differed from the mode of ques-

tioning its decision on a matter arising on the revenue side. When the legislature expressly enacted that three of those shall apply to the revenue side, it seems to me to afford a strong argument that the legislature did not intend the fourth—namely, the power of appeal—to apply to them. *Expressio unius est exclusio alterius*. Surely, the spirit of that maxim applies here? It was said by the attorney general, when pressed by this argument, that it might be that the legislature thought it quite certain that error on a special case was expedient, and therefore enacted expressly that it should be, but that they were not sure whether the power of appeal would be expedient, and so delegated to the lord chief baron and the barons the power to determine that for them. Such humility on the part of the legislature as this, amounting to an admission of their incompetency to determine a point, not of detail, but of principle, is inconceivable; but I cannot think it is so probable as to justify me in straining the words of section 26 out of their ordinary sense for the purpose of making them express such humility. It seems to me that a far more natural solution is afforded by what my brother Bramwell stated in the court below. It appears that the officers of the revenue thought that the power of appeal was inexpedient. It has been assumed rather hastily, both in the court of exchequer and in this court, that this was an unreasonable thought, and that when it was determined that a bill of exceptions might be tendered, it ought to have followed as of course that an appeal should be given; but it is to be recollected that revenue cases are confined to the court of exchequer, and that consequently the members of that court acquire an experience not possessed by the judges of the other courts; but the trials at *nisi prius* on circuit are now before any judges. It might, therefore, be reasonably expected that the comparatively experienced judge would readily reserve points for the more competent tribunal, and it might be thought that if an appeal were given wherever a point was reserved there would be delay and vexatious litigation, to the detriment of the revenue. Consistently with this, it might be thought that a bill of exceptions would seldom be tendered except on some point on which the opinion of the court of exchequer was already known, and which was of importance. I do not say that these suggestions are good, but only that they are plausible enough to make it far from improbable that the officers of the revenue had influence enough to cause the bill to be prepared with the deliberate intention not to give the power of appeal. However this may be, I think, for the reasons I have given, that the true legal construction of the act is not to give that power. Entertaining this view of the law, I am bound (with whatever regret as to this particular case) to say that I think that this court ought not to hear the appeal. I think, however, that we ought not to do anything which can in the least impede the taking of this appeal to the House of Lords. I think our judgment should be that the appeal be dismissed. If the attorney general is right in saying that we are bound to give the judgment which the court of exchequer ought to have given, the judgment I propose would be erroneous, and on appeal the House of Lords would set it right (as, on that supposition, the House would be bound to do,) and pronounce the judgment which this court ought to have pronounced.

Mr. Justice WILLES.—I am of opinion that an appeal well lies in this case, and that the present appeal ought not to be dismissed. Of course, for the purpose of founding any proceeding by way of appeal against the judgment of one of the superior courts of law at Westminster, it is necessary to produce statutory authority, and I am of opinion that there is statutory authority for this appeal in the 26th section of the 22d and 23d of Victoria, cap. 21, and for the action which the barons of the court of exchequer have taken upon that section, by making the rule extending the power of appeal granted between subject and subject in the common law procedure act of 1854 to cases on the revenue side of the court of exchequer, as between the crown and the subject. Of course this question depends altogether upon the construction of that 26th section, and

many objections have been taken to applying it to the support of the rule made in the court of exchequer in the present case. With respect to the objection, that that rule so construed would be a delegation of legislative authority, I think that must fail in the mind of any one who considers the numerous instances of similar delegation within the experience of us all. The course of pleading, for instance, in the courts which I may call courts of first instance, was always considered to be as much a part of the law of the land as any substantive rule for determining the right of property or any other rights, and it was always held that such a law could not be changed without the authority of Parliament; and yet the noble and learned framer of the act, known as Parkes's act, the 3d and 4th of William IV, cap. 42, conferred upon the judges the power, in effect, of legislating with respect to such a portion of the law of the land. It is true that the power given in that act was subject to the rules being laid for a certain period before Parliament; but inasmuch as Parliament, without the crown, could not make a law, inasmuch as Parliament constitutionally could not give its assent to an act of Parliament, simply by having the paper upon which the bill was written or printed laid before it, and inasmuch as in form and substance the assent of the crown could only be given when both houses of Parliament were present, in effect, the power of legislating was given to the judges with respect to such portion of the law. I conceive that the right of appeal is no more important a part of the law, (and, indeed, it is less important,) because it is resorted to in rare cases, than the form of proceedings which take place every day in the superior courts, and by means of which the rights of subjects are ascertained and enforced. Now, after referring to such an instance as that, one is almost ashamed to refer to the numerous cases in which towns and other local communities are allowed to determine by the voice of a majority whether certain acts of Parliament for local government shall or shall not have power within the limits in which the inhabitants reside; and to make amends for referring to such an instance, I shall content myself for a proof that the delegation of legislative power is no objection with referring to the 228th section of the common law procedure act of 1852, by which her Majesty, in council, was authorized to direct that all or any part of that act of Parliament, making very great changes indeed in the law, should apply to all or any court or courts of record in England or Wales, and that without any authority of the House of Lords or the House of Commons. So much with respect to the delegation of legislative power. I shall now turn to the section itself, and endeavor to ascertain whether that section does delegate to the barons of the exchequer the power of making such a rule as they have made in the present case. I am of opinion that it does. Assuming that there is nothing in the objection that Parliament cannot delegate its authority to this extent, in which I think it is proved that there is nothing having in view the instances of the exertion of such a power to which I have referred, is there a delegation of such a power as has been exercised in the present case? At this stage of the argument I am entitled to assume, as was put by the attorney general in his argument, that instead of delegating the power to the court of exchequer, and the court of exchequer exercising such power, the legislature had made this enactment themselves, and then all I have further to do is to see whether the 26th section is large enough to cover the extent of the rule made by the court of exchequer in terms, assuming such a rule to have been made in the form of an enactment by the legislature itself.

Now, for the purpose of testing that, I must strike out the word "any"—"any of the provisions of the common law procedure act, 1852, and the common law procedure act, 1854," and I must read, "such of the provisions of the common law procedure act, 1852," and so on; and I must strike out "as may seem to them expedient," because I am now assuming that it appears to the legislature to be proper, "as may seem to them expedient for making the process, practice,

and mode of pleading on the revenue side of the court of exchequer the same as that on the plea side." Well, then, if the enactment be "to extend, apply, and adapt such of the provisions of the common law procedure act of 1854," which is the act with which we are dealing, as are proper for making the process, practice, and mode of pleading on the revenue side of the said court as nearly as may be uniform with the practice, process, and mode of pleading on the plea side of such court, to deal with such an enactment all you have to do is to ascertain whether the process, practice, and mode of pleading on the revenue side of the court do include proceedings by way of appeal on that side of that court. I own that, upon the best consideration which I can give to the matter, I am of opinion that they do, not only from one's experience with respect to the practice of the court, which has always been considered to include error, and now appeals, but also upon the terms and out of the enactments of this act itself. First of all, with regard to the experience of us all, with respect to practice, (of course the mode of pleading is out of the question,) and I pass over process because it has a technical meaning, such as has been put upon it in Comyns's Digest, title "Process;" it relates to writs, either original or of mesne process, judicial writs in the courts of record, or writs of execution, and I therefore do not place any reliance upon the use of the word "process;" but coming to "practice," "practice" is not a term of art; "practice" is a word applying to all the proceedings by which a cause is brought to judgment and execution, and it is impossible to dispose of the subject of the practice of the court without disposing of all the steps which may be taken before the judgment of the court is carried into execution; and accordingly, looking at the question as a popular one, if I take up any of the recognized books of practice of these courts I find that one of the heads in such a work will be the head of "error." Error will be considered, and now, since the recent alterations, appeal will be considered, otherwise such a work would be as it were maimed of an arm or a leg. A member of the practice of the court is the proceeding by which the judgment of the court may be stayed, and the execution of the court put off until it is determined whether the judgment pronounced by the court is right or not. The understanding to be gathered from works with respect to practice is this, that a proceeding by way of error or appeal is part of the practice on the side of the court in which the process originates. I think it necessarily must be so now, because we are all aware that no court possesses any jurisdiction over the subjects of the Queen without the writ of the Queen. Neither this court nor the court of exchequer has any power to proceed, unless upon the express authority of an act of Parliament, without the process of the Queen; and, accordingly, the jurisdiction of courts of error, before which appeals were formerly brought exclusively, was initiated by the Queen's writ of error out of chancery. That is abolished, and the only process under which the courts act now, from the beginning to the end of any proceeding, is a process which issued out in the court of first instance—the execution, or the stay of execution, of which process is the object, of course, of every proceeding in error in any cause. In modern times an appeal has been substituted, as being found more convenient than a writ of error. The appeal takes the place of the writ of error, and, indeed, more peculiarly so, because appeal is only a proceeding in the court below upon whichever side the process is commenced. There is no record in the court of error; the appeal is a mere information, without any formal process to the court, which is substituted for the first court of what has taken place there, with a view to have a decision without being hampered by the technical forms which affected the proceeding in error. So much with respect to the meaning of the word "practice," as understood in the profession. With respect to the act itself, I apprehend that, as was suggested on Saturday by my brother Williams, this 26th section is framed with express reference to the amendments in the law introduced by the common law procedure acts. As already pointed

out, the first common law procedure act was founded upon the report of a commission to improve the process, practice, and mode of proceeding in the courts of common law at Westminster. The recital of the act is, that that was its object, and its only object, and that act includes proceedings in error. The second and third common law procedure acts followed. The second act is headed "An act for the further amendment of the process, practice, and mode of pleading in and enlarging the jurisdiction." I need hardly observe that that latter clause applied only to the attempt which was made, and made to a great extent unsuccessfully by the framers of those two statutes to extend to the common law courts an equitable jurisdiction, and that it had nothing whatsoever to do with the proceedings in error or appeal. In truth, appeal was not an extension of jurisdiction, but only the substitution of a more convenient mode of obtaining the opinion of a superior court; and unless the legislature is to be considered as having stultified itself in the first common law procedure act, by reciting an improvement in the practice of the courts, and then proceeding to make various enactments with respect to error, not only affecting the courts of first instance, but affecting the courts of error also, and touching even the powers and jurisdiction of the House of Lords, I am at a loss to see why "practice" in the 26th section should not be construed to extend to the mode of taking the opinion of a court of error on appeal before the execution issues from the court in which the proceedings commenced; and I apprehend that that is quite as much a part of the practice of the court of first instance, as is in the case of those revenue proceedings, the trial of the issues arising on a record out of the court of exchequer in the court of *nisi prius* at the assizes, which we all know is a court whose jurisdiction is created in as different a manner, and is in itself in every way as distinct from the court at Westminster as is the court of exchequer chamber or the court of appeal.

It is said, however, that this construction is excluded by certain clauses of the act, and it is said that it is excluded by the fact of the legislature having given in certain cases a right of error and appeal, and having omitted the case in question, and by the supposed absurdity of the legislature intending to give a right of appeal in a case which it has not expressly mentioned. I apprehend, with the greatest deference to those who are of that opinion (and nobody has better learnt how necessary and how just that deference is than myself) that that argument may be retorted with double force upon those who assert that the right of appeal in this particular case is excluded by a right of appeal being given in the cases mentioned in the act. Because not only will this be found to be a case of appeal *ejusdem generis*, but it will be found that the cases in which appeal is granted by the legislature, first of all, are cases in which the special interference of the legislature was necessary, because under the 26th section such a power could not have been given; and, secondly, that, at least, one of those cases of appeal is a peculiar one, and belonging to the revenue jurisdiction only. Now, I may at once refer, in support of that suggestion, to the 15th section. That section gives an appeal in a case in which an appeal was never known before—not even known in those courts to which the act of 1854 in terms applied, because it gave an appeal upon a rule. It is unnecessary that I should say more than that, or go into any discussion of the form of proceeding under which the court of exchequer has revenue jurisdiction upon a rule. It is a summary process, without a writ, and it is enough to say that it is a case in which no appeal had ever previously been allowed, and therefore an appeal is granted, and granted distinctly in a case which goes far beyond any that was contemplated in the act of 1854. I rather collect from that that the legislature thought that appeal was a remedy which should be extended and enlarged. With regard to the other cases in which an appeal might lie under the common law procedure act, the first of them is to be found provided for in the 22d and 23d of Victoria, section 10, where I observe that the attorney general is included under the gen-

eral expression of "the parties." That was an appeal upon a special case agreed to between the parties, including the attorney general, on behalf of the crown. In such a case no intervention of the court was necessary; the crown is sufficiently protected by the attorney general having the power of preventing such an appeal by refusing to give his consent to the special case upon which it might be brought. The 17th section is a very remarkable one, as it appears to me, because before that statute, up to the act of the 2d and 3d of the Queen, cap. 22, no cause out of the exchequer could have been tried at *nisi prius* without a commission. That act abolished a commission in all cases between subject and subject. This act, by the 17th section, reduces the crown to the same condition as the subject in that respect, and it allows the justices of assize a distinct court from the court of exchequer to try revenue cases without any commission. The 19th section is one which requires a remark. It is the section abolishing a writ of error, and then it goes on to enact that "the proceeding in error shall be a step in the cause, and shall be taken in manner and subject as to such terms and conditions as to giving bail or security as may be directed by any rule or order made by the barons." Why? Because the provisions of the common law procedure act, following the statute of Elizabeth, were not applicable to the case of the attorney general, because it was thought, no doubt, an absurdity that the attorney general should enter into a recognizance, or that any security should be given by him; and, accordingly, it was necessary that there should be rules by which the law applicable to parties should be modified, and that to me seems quite a sufficient reason why this provision as to the abolishing of a writ of error should be specially introduced into the act. And moreover, I think, with reference to the 27th section, that such a section as the 19th was necessary, because it enacts that "new or altered writs and forms of proceeding" shall be framed by the barons; but it does not give the barons a power which would include the abolishing of the Queen's writ of error. The introduction of the 19th section appears to me to be fully explained in that way. Then comes the section with respect to a bill of exceptions, and that, of course, was necessary, because the right to a bill of exceptions is founded upon the statute of Westminster the second, and not upon the first or second common law procedure act, and, therefore, an express section was necessary. This being so explained, I apprehend that the introduction of such an enactment by the legislature strongly fortifies the position which I take, because it shows that the legislature intended to put the crown in the same condition as the subject in every respect in which that course could be taken. But now comes the question of an appeal upon a rule for a new trial, which may be without the leave of the court when it is divided, and without the leave of the attorney general. Why should that discretion be vested in the barons of the court of exchequer, and why should it be for them to say that appeal should lie in such a case? I own that I see no difficulty in answering that question, because I conceive that the appeal upon a special case after the argument of a new trial is only a more convenient mode of raising a question which could have been raised upon a bill of exceptions. Am I right in saying that you could raise under a bill of exceptions the sort of question which is desired, so far as I can judge from the proceedings, to be raised here? I am clearly of opinion that you can. It is said ordinarily that you cannot except to a non-direction—that is to say, to the judge not having directed upon a particular point. That is so ordinarily, no doubt; and, if it were not so, a judge could never select the point which he perceives to be the only real one in dispute, and leave that alone to the jury, disembarassing their minds of that which has become immaterial for them to consider, because it has either expressly or tacitly been admitted. Such was the ruling of the House of Lords in a case which is cited so frequently—the case of "Anderson v. Fitzgerald," (4 House of Lords, 484.) But it would be quite a mistake to suppose that if a judge, having omitted to state a proposition which ought to be stated in the affirmative or in the

negative, states, or omits to state, a point of law to the jury so as that they may be misled as to the facts in the case, which it was material for them to consider, and counsel calls the attention of the court to that omission, and the judge declines to correct the impression which has been produced by the omission and by his silence upon the subject, it would be a mistake, I repeat, to say that a bill of exceptions may not be tendered. In order to tender a bill of exceptions upon an omission, the counsel must expressly call the attention of the court to it, and it must be the omission of a direction in point of law which induces the jury to look to facts which they ought to consider as irrelevant, or to omit from their minds facts which they ought to consider important. And such was the opinion of the judges in the recent case of *M'Mahon against Leonard*, (6 House of Lords, 996.) Mr. Justice Wightman, in delivering the opinion of the judges in that case in the House of Lords, (page 996,) so laid down the law with the assent of all the judges who were then present; and I repeat, therefore, that those points which may be taken at the trial by a bill of exceptions, if the exceptions are properly framed, may be taken, and none other that I know of, upon the argument of such an appeal. If the statute with respect to bills of exceptions had directed, as we know it does in one part of the kingdom, that the exceptions should first be argued before the court of first instance, and should afterwards go to the exchequer chamber, this would be nothing more than in substance changing a proceeding by bill of exceptions, which is full of expense and technicality, into a simpler and more beneficial proceeding by way of appeal against the ruling of the court upon a point which might have been raised at *nisi prius* upon a bill of exceptions. The court of exchequer seems to me, therefore, in making this rule, to have been authorized by the 26th section, and to have kept strictly within its provisions; and the rule appears to me to be a rule with regard to the practice of the court, and not exceeding the jurisdiction which the legislature intended to confer upon the court of exchequer, to which exclusively are confided those complicated and unusual cases—proceedings *in rem*—questions that would not arise between subject and subject in the other courts. I think this appeal is competent, and that we ought to proceed.

Mr. Justice CROMPTON said: The question before us in this case is, whether the chief baron and three barons of the court of exchequer had authority, by a general rule made by them under the 26th section of the Queen's remembrancer's act, to give to parties litigant on the revenue side of the exchequer an appeal against the decision of the court upon a rule for a new trial upon matter of law arising at the trial. It was not contended on the part of the crown that any such appeal existed independently of that statute, nor was it, nor could it be, pretended that such right of appeal was directly given to the parties by that statute which regulates proceedings in error, and gives, in distinct and express terms the right of appeal in several cases where the legislature thinks it ought to exist. The attorney general was, therefore, obliged to insist upon a supposed delegation to the barons of the power of creating such appeal by virtue of the 26th section of the act. No doubt the legislature might, had it so pleased, have given such a power of creating such appeal to this court, and ultimately to the House of Lords, but it certainly would be a new and unusual course of legislation in creating a new statutory appeal. Parliament has frequently delegated powers as to pleading and practice, and has authorized persons interested in particular localities to adopt the provisions of particular acts of Parliament; but, as far as I know, this is the first time that a power of creating an appeal has been intrusted—if it has been intrusted—to the court from whose decision the appeal is to be; and the general rule that an appeal, the creature of a statute, must be very distinctly and unequivocally given, seems to me to apply still more strongly to the supposed power of creating such appeal. I cannot think that the power of creating such an appeal is given to the barons by the 26th section. In the earlier parts of the act provision is distinctly and expressly made creating

appeals in some cases, and for regulations as to the matters of error and appeal where the legislature thought that such appeals should be made, and that such regulations were desirable; and in giving such appeals and making such regulations, and in introducing such provisions of the procedure acts, and in making them applicable to cases on the revenue side of the exchequer, they seem carefully to have abstained from giving the right of appeal from decisions of the court on motion, although such right of appeal is given expressly by the procedure act of 1854 in civil cases in the same set of clauses from which they selected some for giving rights of appeal in other cases. The legislature may possibly have thought it better not to give so much facility to appeals in cases for the breach of customs and excise laws as might operate as a temptation to parties to bring forward appeals in many cases for the purpose of delay and vexation, especially when the court peculiarly conversant with revenue matters had decided upon them. They certainly appear to have abstained, probably upon some such ground, from inserting provisions for such an appeal where we should have expected them to be found if so intended; and this makes me think it the less likely that they would delegate the power of creating such appeal to the barons. It was contended that the legislature, by the use of the words "process, practice, and mode of pleading" in the 26th section, must be taken to include the right to appeal, as those words are used in the preamble and in other parts of the procedure acts; and that, as the later procedure act contains provisions for appeals on motions, the words in question must be taken to have a statutory meaning, and to include therein such right to appeal, and that such right is either process, practice, or mode of pleading when used in the subsequent act. I agree, however, with Sir Hugh Cairns that it would be a very unsafe construction to infer from the preamble or recital of a statute that it contains all it refers to, and that it contains nothing more than what may be said to be included in the recital or preamble. As observed by Sir Hugh Cairns, it may contain all that is in the recital and preamble, and something more, as a right to a new statutory appeal. It seems to me that the 26th section refers to process, practice, and mode of pleading in the ordinary sense of those words, and that they cannot fairly be construed as intended to include the right of appeal, especially in a statute where various rights of appeal are given before by express words. The words following the first branch of the section give power "from time to time, by any such rule or order, to extend, apply, or adapt any of the provisions of the procedure acts, and any of the rules of pleading and practice on the plea side of the court to the revenue side of the court;" but this general power is qualified by words plainly applicable to the whole of the preceding powers as to adapting the provisions of the procedure act. Those words are, "as may seem to them expedient for making the process, practice, and mode of pleading on the revenue side of the said court as nearly as may be uniform with the process, practice, and mode of pleading on the plea side of such court." The whole section seems to me clearly intended to give powers to make rules respecting process, practice, and pleading. It is analogous to the provisions in many cases for courts to make rules as to their own process, practice, and pleading. It refers to the rules of pleading and practice, and, as I think, to the provisions of the procedure act, so far as relates to process, practice, and pleading. The words "from time to time" appear to apply to cases like those where the courts are empowered to make rules for the purpose of pleadings, amendments, time for pleading, writs, processes, and the like, and not to be so applicable to the case of giving a new right of appeal, which I agree with the attorney general could hardly be intended to be given one day, and taken away or altered on another, as might well be the case with mere rules of practice or pleading, which might be found inconvenient, and altered again. Another argument urged upon us was, that as the bill of exceptions was given by the act, the appeal on motion was only a new kind of practice and mode of obtaining the same result. I can-

not think that the giving a bill of exceptions to correct a mistake made at the trial by a single judge who may by the act in question be the judge of another court is at all the same thing as giving an appeal against the decision on motion of the court particularly conversant with matters of revenue; and though in many cases a question of law might be raised in both methods, they would be raised with very different incidents to the parties. The bill of exceptions, which could formerly be used only on writ of error, and since the procedure acts can only be used on suggestion of error, is an expensive and troublesome remedy, seldom resorted to except on important and fitting occasions; and it may well be that the legislature has given that remedy, and purposely abstained from encouraging appeals on the smaller matters of the breach of the excise and custom laws which so frequently come before the court of exchequer. There certainly has been some ground for complaining of the number of appeals which have been brought under the provisions of the procedure act from decisions upon motions in the common law courts; and from what passed in the court below there seems to have been some fear of the consequences of extending this provision to proceedings on the revenue side. It is sufficient, in my mind, as to this argument, to say that the bill of exceptions and the new appeal from decisions on motions is not the same remedy, nor can the one, I think, be fairly treated as process or practice by which to carry out the other. I think that the words "process, practice, and pleading," in the 26th section, cannot, without great straining, be construed as delegating the power of creating a right to appeal. The right of appeal can hardly be process or pleading; and as to the word "practice," I cannot help thinking that there is a great difference between the machinery of the appeal and the right of appeal. The former might with less difficulty be called "practice," but I have great difficulty in seeing how the giving a right to appeal is "practice." The power given to eight judges to make pleading and practice rules in ordinary actions could never have been imagined to give any power of creating an appeal; and it seems to me, from the reference in the Queen's remembrancer's act, section 26, to those prior rules, and from the qualifications limiting the power of adopting the provisions of the former acts to the purposes of practice, pleading, and process, and from the other reasons I have referred to, that I cannot say that the legislature has by the 26th section delegated to the barons any such power as that contended for. I think, therefore, that there is no right to appeal from the decision on motions of the court of exchequer in cases on the revenue side of that court, and consequently that we have no jurisdiction to interfere with the decision of the court of exchequer in the present case. I agree entirely with my brothers Blackburn and Meller, that if we are wrong our error may be set right by the House of Lords, who, if they are bound by the rule of court of the barons, are directed by the same rule to give the judgment that we ought to have given.

Mr. Justice WILLIAMS said: I am of opinion that we ought to hear this appeal, because I think the barons of the exchequer had power under the statute 22d and 23d Victoria, cap. 22, sec. 26, to make the order which they have made, extending to the revenue side of their court the provisions contained in the 35th and 36th secs. of the common law procedure act, 1854. The 26th section of the former statute authorizes the barons by their order, "to extend and apply or adapt any of the provisions of the common law procedure acts, &c., to the revenue side of the said court as may seem to them expedient for making the process, practice, and mode of pleading on the revenue side of the said court as nearly as may be uniform with the process, practice, and mode of pleading on the plea side of such court." It cannot be controverted that if this section confers on the barons a general power to extend such of the provisions of the common law procedure acts as they think proper to the revenue side of the court all question ceases. But it is argued that the language of the section confines the extension to such provisions of the common law procedure acts as relates to

proceedings in the court of exchequer itself, and does not allow of the application of such of those provisions as relate to appeals to the exchequer chamber and the House of Lords, which, it is said, are foreign to the court of exchequer, and are not part of its "process, practice, or mode of pleading." But it should be observed that the proceedings in error, generally speaking, are not regulated by any rules of the courts of error themselves, but "by *regula generales*" of the superior court of Westminster, out of which the proceedings in error come, and this appears to show that proceedings in courts of error by way of appeal may well be regarded as parts of the practice of those courts respectively. It may further be remarked that the phrase "process, practice, and mode of pleading" is a familiar phrase which the legislature appears to have purposely used as one of well-known signification. It was, I believe, first employed when the commissioners were appointed to inquire into the "process, practice, and pleadings of the superior courts of law at Westminster," and afterwards in the preamble of the common law procedure act, 1852, and again in the title of the common law procedure act, 1854, and lastly, in the title and preamble of the common law procedure act, 1860. But in accomplishing the great work of rendering more simple and speedy "the process, practice, and mode of pleading in the superior courts at Westminster," it was not thought to be going beyond that purpose to reform and simplify the "proceedings in error." None of the wholesome enactments, however, contained in these statutes extended to the revenue side of the court of exchequer until the passing of the statutes the 22d and 23d of Victoria, cap. 21, now in question. And looking at the clauses in this statute which were introduced for that purpose, it appears to me plain that they were framed with reference to the anomalous character of suits and proceedings in that branch of the court. Their nature is so peculiar that the legislature appears to have deemed it inexpedient to enact generally that the common law procedure acts shall apply to the revenue side as well as the plea side. Accordingly, some of their reforms, which are unquestionably beneficial, are at once applied. For example: by section 9 the general power of amendment given by the 22d section of the common law procedure act is expressly extended to the revenue side. Again, by section 10, the improvements as to the stating of special cases and bringing error thereon are also expressly applied at once. Again, by sections 18, 19, and 20, certain other of the provisions of the common law procedure act, as to the propriety of the application of which no doubt could be entertained, are at once and absolutely extended to the revenue side. But as to the rest the statute leaves it to the discretion of the barons, as being best able to judge of the expediency, to extend to the revenue side so many of the provisions of the common law procedure act as they think right, in order to carry into effect the declared purpose of uniformity. It has been objected that if the statute meant to give the right of appeal it would have said so in so many words. But this would be to deprive the barons of the discretion which, in my opinion, that statute meant to confer on them, as to adopting this provision of the common law procedure act. Nor should we, in hearing this appeal, violate the rule that an appeal never lies unless it is given by statute, because it is so given if the statute in question authorizes the barons to extend the enactment which confers the right. And being of opinion, for the reasons I have given, that proceedings in error by way of appeal are part of the practice of the court below within the meaning of that statute, I think the legislature confers the right of appeal in this case.

Lord Chief Justice ERLE.—Upon this motion to dismiss the appeal the question has been whether the barons of the exchequer had jurisdiction to order that the following provision of the common law procedure act, 1854, should be applied to the revenue side of the court of exchequer—namely, that an appeal, with its ordinary incidents, should lie to the exchequer chamber and the House of Lords, where a rule for a new trial on the ground of misdirection by a judge has been discharged. In my opinion, the answer to this question should be in

the affirmative, that there was jurisdiction, on the ground that the Queen's remembrancer's act, the 22d and 23d of Victoria, cap. 21, sec. 26, gave to them the power to make that order. In support of this opinion I proceed to consider that statute, together with the state of the law which led to its passing. And first, I would premise that procedure in a suit includes the whole course of practice, from the issuing of the first process, by which the suitors are brought before the court, to the execution of the last process on the final judgment; and throughout the common law procedure acts and this act "procedure" is used as equivalent to "process, practice, and mode of pleading." Procedure in civil suits in the superior courts of common law received memorable improvements by the common law procedure acts, 1852 and 1854. Those acts are declared in the preamble of the first and the title of the second to be for the amendment of process, practice, and mode of pleading in the superior courts. Those acts provide that each suit, from the issuing of the first to the execution of the last process, should be taken to be one entirety. They contain provisions for the practice to be followed in obtaining redress for erroneous judgments by appeal to the exchequer chamber and the House of Lords, the writ of error being abolished and proceedings in error being declared to be steps in the cause by the common law procedure act, 1852, section 148. Appeal is very essential for maintaining the right administration of law, and careful provisions are made to give the use and prevent the abuse of the right of appeal. According to those provisions, the appeal is effected by the act of the suitor in the court of first instance delivering a memorandum to the officer of the court, without writ or other authority, and the right to deliver that memorandum is vested in him in his capacity of suitor, derived from the first process in the suit. That memorandum so delivered, if the conditions of procedure are complied with, compels the officer of the court below to bring the record into this court and into the House of Lords, and may compel each of those higher courts to hear his appeal against the judgment entered on the roll of the court below so brought by that officer into the higher court, and he is to record thereon the judgment of those higher courts, and then to take back that judgment to the court below as the judgment in that suit to be executed by that court according to the practice thereof. The provisions are ample for the practical guidance of the suitor in carrying his appeal through each court, and they are clear to show that each court of appeal has no other function than to fix the time for hearing the case; neither court can interfere with the record, or do any effective act, but hear and determine on the judgment to be pronounced. The whole of these provisions in the common law procedure acts are constantly described as relating to "process, practice, and mode of pleading," and they extended to the plea side of the court of exchequer, but not to the revenue side of that court. And this brings me to the passing of the statute above mentioned—the 22d and 23d of Victoria, cap. 21—under which the barons claimed to make this order. I assume that the procedure on the revenue side of the exchequer was adapted to usages now obsolete, and so was in need of being amended; also, that the legislature intended to adopt this amended procedure of the common law procedure act, as being consonant to the interests of truth and justice, reserving no privileges to the crown as a suitor against a subject inconsistent with those interests. I would also refer to the rule that the rights of the crown cannot be taken away without clear words of enactment as explaining the insertion of some of the sections of this act.

But to come to the statute itself, the preamble recites the expediency of making provision in relation to the procedure on the revenue side of the court; then several sections, adapting the spirit of the common law procedure acts to matters of revenue, contain provisions suited to the intended change of procedure. Those which seem to me relevant to the matter now in hand are as follows: Section nine gives full powers to amend all defects of form. Section ten to state a special case and bring error thereon. Sections twelve and thirteen, in case of

appeal to the exchequer from the assessment of the commissioners relating to succession duty, give power to appeal from the exchequer to the two higher courts. Section fifteen, in case of a suit for succession duty, enables the court to refer the matter to a master, and to take his report as a special case, and error to be brought thereon. Section seventeen empowers the judges of assize to try issues on the revenue side as on the plea side. Section nineteen makes proceedings in error to be a step in the cause without writ of error, to be taken in manner as may be directed by any order made by the barons under this or any other act. Section twenty gives power to tender a bill of exceptions on trial of issues from the revenue side, and section twenty-one to give costs for and against the crown. We then come to section twenty-six, which gives large powers for making orders. It contains two distinct clauses. By the first clause the barons are empowered from time to time to make all such orders as to "process, practice, and mode of proceeding on the revenue side, and for the effectual execution of this act and the intention and objects thereof as may seem to them necessary and proper." And by the second clause "also from time to time by such order to extend, apply, or adapt any of the provisions of the common law procedure act, 1852, and of the common law procedure act, 1854, and any of the rules of pleading and practice on the plea side of the court to the revenue side as may seem expedient for making the process, practice, and mode of pleading on the revenue side as nearly as may be uniform with the process, practice, and mode of pleading on the plea side of the court." I have referred to several sections creating specific appeals. For all of these appeals, both to the exchequer chamber and to the House of Lords, the barons must make order under section twenty-six when making order as to process, practice, and mode of pleading on the revenue side; for if they did not do so, the effectual execution of the act would be prevented. Section nineteen, relating to proceedings in error, seems to me to refer expressly for the practice in those proceedings to the orders to be made by the barons under section twenty-six. It refers to orders to be made under this act, and section twenty-six is the section which empowers them to make the required orders. If this view of the effect of the statute be correct, it is certain that the power of the barons to make orders as to the process, practice, and mode of pleading on the revenue side was not confined to the court of exchequer, but extended to the courts of error into which suits should be brought from the revenue side of the court of exchequer. It may also be worth noting, that under section 26 the barons must make orders for the practice on the appeals under sections 10 and 12 above referred to, as the appeal is created by the name "appeal," and no specific procedure is created. The first clause of section 26, gives very ample powers, but the second clause is that which is more immediately applicable to the order in question. It empowers the barons, *inter alia*, to apply any of the provisions of the common law procedure act of 1854 to the revenue side, as may seem expedient for making the procedure on the revenue side as nearly as may be uniform with the procedure on the plea side. The order in question applies, section 35, which is one of the provisions of the common law procedure act of 1854, to the procedure on the revenue side. The barons are directed to make that procedure uniform with the procedure on the plea side. Section 35 is part of the procedure which is in use on the plea side, and the barons, therefore, are not only empowered, but required, to make an order for applying it, if they are to make the procedures on the two sides uniform, and if they think it expedient. The order of the barons seems to me, therefore, to be supported by the words of section 26, and to accord with the intention to be collected from the context. The objections on which Sir Hugh Cairns relied to prove want of jurisdiction depend on the construction of section 26; and if the construction above stated is right, it follows that his objections fail. Against that construction he pressed two principal arguments, as I understood him—first, that the order which the barons were empowered to make was

intended to operate only on proceedings while in their own court, and had no effect upon the courts above; and, secondly, that the said order, if valid, subjected suits to a ground of appeal which did not exist before. As to the first ground, I have already given my reasons for saying that procedure on the revenue side includes not only proceedings in the court of first instance, but also those in the sequel of courts through which the same suit may be carried by the suitor, and that power was given to the barons over the whole of the procedure. The statute, in my opinion, delegated to them an authority to make orders, and all orders made within that authority have the same effect as the statute. It may well be that the legislature thought that the barons of the exchequer were best qualified to decide how far the collection of the revenue could be reconciled with the new rights proposed to be granted—rights which might be subject to abuse by dishonest debtors sued by the crown. But my reasons for dissenting from this argument have been sufficiently explained. With regard to the second objection, that the order, if valid, would subject suits to a ground of appeal which did not exist before, my answer is a denial of the fact. In my opinion the order of the barons did not create any new ground of appeal. The order applies (section 35 of the act of 1854) to the revenue side, and thereby, when a motion is made for a new trial on the ground that the judge has not ruled according to law—that is, has misdirected—a party may have the decision on that rule reviewed in a court of appeal. Before 1854, in case of misdirection by a judge, a party aggrieved might seek redress either by tendering a bill of exceptions, or by moving *in banco* for a new trial. Each remedy had its defects. The bill of exceptions, though a most salutary check against mistakes by judges, was subject, in practice, to much expense, delay, complication, and other defects. The motion for a new trial had the defect of being final without appeal, and as the court, according to usage, accepted the statement made by the judge of the course he had taken at the trial, the suitor was often dissatisfied with the result. Section 35 introduced a salutary amendment of the practice, which was to be at the suitor's option in case of misdirection, by enabling him to appeal from the decision of the court of first instance upon a motion for misdirection. By this amendment a bill of exceptions can only be needed when the suitor has a distrust of the judge or of his court. If there is mutual confidence, the point can be reserved subject to appeal, and the suitor has facility for obtaining the judgment of each of the three courts in their order. But on a bill of exceptions, the opinion of the court in which the action is brought is not taken, and the proceeding is encumbered with the difficulties before referred to. The 22d and 23d of Victoria enabled the party to tender a bill of exceptions in suits on the revenue side. It thereby enabled him to bring any complaint of misdirection before a court of appeal, the ground of appeal being misdirection, but the practice to be followed being bill of exceptions. The order in question left the ground of appeal precisely the same as it would have been under a bill of exceptions, but altered the practice to be followed in seeking redress. If the party, instead of tendering a bill of exceptions, moves for a new trial, he may bring the question of misdirection before the court of appeal under the order of the barons. But it is still the same misdirection which might have been the subject of exception. The course for redress under a bill of exceptions would have been more circuitous; but still misdirection, and nothing but the misdirection, which might have been an exception, can be the ground of appeal under the order in question. Thus it seems to me to be true that the order relates only to the practice to be followed in appealing on account of misdirection, and leaves the rights of the parties under the law in respect of misdirection as they were before, and in this sense did not create a new ground of appeal. For these reasons I am of opinion that the order in question is valid, and that this court has jurisdiction to hear and determine this appeal.

Lord Chief Justice COCKBURN. After the best consideration I can give to

this case, the only conclusion at which I can arrive is, that we have no jurisdiction to entertain this appeal. The question depends upon whether, by the 26th section of the 22d and 23d Victoria, cap. 21, "An act to regulate the office of Queen's remembrancer, and to amend the practice and procedure on the revenue side of the court of exchequer," power is given to the latter court to establish the proceeding by appeal on motions for new trial in revenue causes, and to give an appellate jurisdiction to the court of exchequer chamber. The section first provides that "it shall be lawful for the lord chief baron and two or more barons of the court of exchequer from time to time to make all such rules and orders as to the process, practice, and mode of pleading on the revenue side of the court, and as to the allowance of costs, and for the effectual execution of the act, and the intention and objects thereof, as may seem to them necessary and proper." It is admitted that this part of the section relates only to the procedure in revenue causes so long as a cause is pending in the court of exchequer itself. But the section goes on to give power to the barons "from time to time by any rule or order to extend, apply, or adapt any of the provisions of the common law procedure act, 1852, and the common law procedure act, 1854, and any of the rules of pleading and practice on the plea side of the said court to the revenue side of the said court, as may seem to them expedient for making the process, practice, and mode of pleading on the revenue side of the said court as nearly as may be uniform with the process, practice, and mode of pleading on the plea side of the said court." The question is, whether the power of adapting the provisions of the common law procedure acts, for the purpose of assimilating the procedure on the revenue side to that on the plea side of the court, enables the court of exchequer to create for the first time an appellate jurisdiction in this court in causes relating to the revenue. It is, no doubt, true that the proceeding by appeal on motions for new trial is one of the provisions of the common law procedure act of 1854; but I cannot bring myself to think that, when the language of the 26th section of the 22d and 23d of Victoria, chapter 21, is looked to, the application of this provision is within the scope of the authority conferred on the barons of the exchequer. Still less, when the other enactments of this statute are taken into account, does it seem to me possible to adopt that view. It is admitted that the words "process, practice, and mode of pleading on the revenue side of the court," occurring in the first branch of the 26th section, apply only to the procedure of the court itself properly so called. It is not contended in support of the jurisdiction that, under the power conferred by the first branch of the section, the court would have had power to create a proceeding by appeal. Why, then, should the words be read differently when occurring in the second branch of the section? Besides which, independently of this argument, it appears to me that the term "process, practice, and mode of pleading on the revenue side of the court" must be taken to have reference to the procedure of the court while the cause is still pending within it, and cannot be taken, without a very forced construction of the language, to apply to the creating of an appellate jurisdiction, or to the procedure to be adopted, when the cause has quitted the sphere and precincts of the inferior court, and has passed into the jurisdiction of the appellate tribunal. It is true the process out of which the appeal emanates and springs is that of the court below, as also that the record after the appeal has been disposed of returns to the court out of which it came, in order that effect may there be given to the judgment. It is also true that in acts of Parliament relating to procedure the term "process, practice, and mode of pleading" is applied to the procedure of courts of error and appeal. But who on an appeal in a civil suit ever thought of speaking of the practice of the court of exchequer chamber as the practice of either of the three courts from which, to its superior jurisdiction, an appeal lies? In the court of exchequer, on a rule for a new trial, a plurality of counsel may be heard on the same side. In the court of appeal we hear but

one on each side. This is because our proceedings are here regulated by the practice of this court, and not by that of the court of exchequer. Again, the time within which the appeal must be brought, the form in which it shall be brought before the court, the awarding of process (as to which power is expressly given to the court of appeal)—all these are matters of practice, as to which, if special statutory enactments had not been made, the court of appeal must have made rules to regulate its own proceedings. How can these matters be said to appertain to the procedure on the revenue side of the court of exchequer? Yet these provisions as to the jurisdiction and procedure of this court the court of exchequer has taken upon itself to prescribe and settle as though it formed part of its own. The fundamental fallacy of the whole proceeding appears to me to consist in supposing that because a cause commences on the revenue side of the court of exchequer, and, in a certain sense, may be said to be a cause in that court, the practice and procedure of this court is, therefore, to be a part of the practice and procedure of the court of exchequer. The revenue side of the court of exchequer is a separate and distinct court; this court of exchequer chamber is another. The practice and procedure of the one is not that of the other, and a power to amend the practice and procedure of the one is not, as it seems to me, a power to amend that of the other.

But can it be supposed, in the absence of clear legislative enactment, that Parliament intended to confer on the court of exchequer the power of creating or withholding an appeal in matters of revenue at its pleasure and discretion? Where, in the history of juridical legislation, was such a thing ever heard of as the legislature leaving it to a tribunal to decide whether its authority should be subject to revision and correction on appeal? No doubt, in order to prevent vexatious and frivolous appeals, the right to appeal may be made conditional on the permission of the court; but no one ever heard of its being left to a court to decide whether its authority should be generally subject to an appellate jurisdiction or not. Statutory power has been given to courts to make rules and regulations as to procedure, but never to determine whether there should be a superior appellate court. Is it conceivable that Parliament would, in a matter of so much importance, and so eminently fitted for the determination of the legislature, have delegated its functions to a court of law? It does not appear to me enough to say that by this act the proceeding by bill of exceptions is allowed in revenue cases, and therefore the legislature might well intend to give power to the court of exchequer to superadd the proceeding by way of appeal. The obvious answer to such an argument is, that, had such been the case, nothing would have been more easy than for Parliament so to enact—a few short lines, and the matter would have been set at rest. But there are material distinctions between the proceeding by bill of exceptions and that by appeal. The proceeding by appeal, consisting as it does of three stages instead of two, is more likely to be resorted to for the purpose of delay. The case on which the appeal is to be brought must be stated between the parties, or, in case of disagreement, must be settled by a judge. It may not have been deemed advisable to place the crown in this position. I am warranted in thinking that the adoption of this mode of proceeding in revenue cases was deemed of doubtful expediency, from the fact that, though the act of the 22d and 23d of Victoria, cap. 21, passed as far back as 1859, it was not till November last—that is, after an interval of four years—that the court of exchequer, in consequence of the difficulty which arose as to settling the bill of exceptions in this case, had recourse to the 26th section, and made the rule of the 4th of November, 1863, in order to get rid of the embarrassment in which it found itself placed. It may be that, from a doubt of the propriety of extending the right of appeal to revenue causes, the legislature may purposely have stopped short of introducing an appeal clause into the act of 1859, and may have contented itself with affording a remedy by bill of exceptions, as being of a more

formal character and less likely to be resorted to, except on very substantial grounds, and as avoiding the inconvenience of making the crown a party to the special case to be stated. This view of the case becomes materially confirmed when it is observed how much of the provisions of the common law procedure acts in relation to proceedings on error has been introduced by specific enactment into the statute in question. In the 9th, 10th, 18th, and 19th sections we have the provisions of those acts relating to error applied to revenue causes. It follows that either Parliament did not consider the adoption of these provisions as within the competency of the court of exchequer within the 26th section, or did not think proper to leave legislation on such a matter to the court instead of providing it by act of Parliament. Why, then, should a different course have been pursued in the perfectly analogous case of proceeding by appeal? Again, in the 20th section we have a provision for the right to a bill of exceptions. If the legislature had intended to give the proceeding by appeal as well, why should it have stopped short of saying so? Still more striking are the provisions of the 12th and 13th sections, by which, in cases of appeal from the assessments of the commissioners of inland revenue to the court of exchequer under the succession duty act (proceedings clearly on the revenue side of the court,) an appeal is given in the very terms of the common law procedure act to the court of error in the exchequer chamber, and from this court to the House of Lords. Can it be supposed that if the legislature had intended to extend the right to appeal further, it would have confined its specific application to this particular instance? According to the well-known rule of construction, must not the express enactment in the particular case be taken to negative the intention to extend the provision generally? If, indeed, there were no provisions of the common law procedure acts which were applicable to assimilating the procedure of the two sides of the court of exchequer, except the provision as to appeal, I should feel greater difficulty as to the construction of the 26th section. But there are several most valuable provisions which would fall plainly within the procedure of the court, in my sense of the term. Among these may be enumerated the provisions as to evidence, as to discovery and inspection, and as to trial—provisions which have had the effect of improving the administration of justice in the courts of law in a very eminent degree. To the adoption of these and similar provisions of the common law procedure acts the power of the court of exchequer, in my opinion, alone extends. To push it further would be, I think, to make Parliament say what it has not said, and do what it has not done; to legislate, in short, instead of expounding the statute, which alone is within our province. I regret to be obliged to come to this conclusion, partly because the proceeding by bill of exceptions appears to have been given up on the belief that this proceeding could be adopted; still more because, if the view I have taken be correct, the opportunity will be lost of settling the law on the very important question of the construction of the act of the 59th George III, cap. 69, as to the equipment of ships for the service of belligerents. We should, however, be altogether departing from the principles on which, in the discharge of our judicial functions, it is our solemn duty to act, if we allowed ourselves to be influenced by considerations such as these. We must interpret this act of Parliament, on which alone the present question depends, as we would do any other statute, and as though the discussion and decision of a great question of national importance were not depending on our judgment on this preliminary objection. I cannot, however, but observe, in conclusion, that in all probability we shall neither prejudice the parties nor delay the ultimate decision of this great question by dismissing this appeal. Whatever might have been our decision on the main question, had we proceeded to hear this appeal, this case would, no doubt, have been taken to the House of Lords. Doubtless such will be the case now; and if the highest appellate tribunal should hold the decision of this court on the

question of jurisdiction to be erroneous, the case will be heard upon its merits, as it would have been had we heard this appeal, and decided the main question involved in it. It is satisfactory, therefore, to think that no injury or delay can be occasioned by dismissing this appeal in the present stage, even should we be wrong. I concur with those members of the court who think that, according to the true construction of the 26th section, we have no jurisdiction to entertain this appeal, and that our only course is to dismiss it.

The majority of their lordships being in favor of a dismissal of the appeal, it is dismissed accordingly, the crown, as has been intimated, having a right of appeal to the last and highest court—the House of Lords.

Mr. Adams to Mr. Seward.

No. 595.]

LEGATION OF THE UNITED STATES,

London, February 11, 1864.

SIR: The publication of the diplomatic papers annexed to the President's message has elicited much comment in Parliament and in the newspapers, upon your instructions to me, in your No. 651, of the 11th of July last, and particularly that portion of them which declared the intention of the government, under certain contingencies, to enter English ports and seize obnoxious vessels. In my No. 593, of last week, I pointed out to your attention the observations of Lord Derby on that subject, on the opening night in the House of Lords. Remarks of a similar kind have since been made in the Commons. I now transmit a copy of the Times of yesterday, containing a report of the replies made by the ministry in both houses to these questions.

It is, perhaps, unfortunate that, when you decided on publishing these instructions, you did not at the same time insert, at least, so much of my No. 465, of the 31st of July, as would have explained the reason why they were not acted upon at the time by me. For want of that light, it has been generally assumed here that I took the responsibility of suppressing them altogether. The inference is that I assumed to judge them unsuitable, or else was afraid to present them. In point of fact, you may remember that on the very same day of their date I had anticipated them, for the most part, by presenting to Lord Russell a note embracing much of the arguments contained in your despatch. This you did me the honor to notice, in flattering terms, in your later despatch, No. 667, of the 29th of July. The only question then left open was upon the expediency of addressing a new note to Lord Russell for the single purpose of introducing the particular notification which has given rise to the present discussion. For the reasons given in my despatch No. 465, already referred to, I thought it inexpedient at that late moment to reopen the subject. My intention then was to postpone it until the final answer should be made to the remonstrances against the departure of the iron-clads. But when that moment arrived, which was on the reception of Lord Russell's note of the 1st of September, I felt so fearful that the declaration of that intention would close all further possibility of preserving the peace between the two countries, that I preferred to take the other course indicated in my reply of the 5th, which was, while intimating the strong character of my instructions, to propose to await new ones adapted to the precise emergency rather than to declare them. As matters actually turned, this proceeding seems to have been fortunate; for whilst the general statement in my note left on this government the impression that war might be the alternative in contemplation, the language took no such specific shape as to compel it to resent it as a threat. Even as it was, however, you may recollect that I have expressed to you my regret at the circumstance that

my note had passed out of my hands so immediately before I received Lord Russell's note of the 4th, which was then on its way from the foreign office, and which prefigured a more auspicious termination of the dispute.

I have gone into this, perhaps needless, exposition of the circumstances attending this affair, not because I feel that it does me any particular injury here. On the contrary, the effect is to raise my action in the British estimation rather more than it deserves, or I altogether relish. Nothing is more unsafe to a diplomatic agent than an approach to a false position between two governments. Had this risk been brought upon me by any proceedings on this side, I should feel anxious to do something at once to restore matters to a proper footing. As it is, the accident has happened by reason of the authorized publication of the facts in America. I trust that there, at least, no unworthy inferences from the language held here may gain currency from the absence of explanations on this side of the water.

One incidental good effect of this outburst in Parliament is, that the ministers, having been attacked upon a point upon which they are able to make a clear and conclusive reply, are, to a great extent, relieved from the necessity of defending themselves on other matters. In comparison these appear trifling. The growing complications in Germany divert attention from them more and more. It is now left scarcely doubtful that the disintegration of Denmark is the cardinal point of the policy of the great powers. Even if successful, it is impossible that this can be gained without a severe shock to the future relations of the governments of Europe. Hence it is that new views may be taken here of the proper conduct towards America.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,
Secretary of State.

[From the Times of February 10, 1864.]

HOUSE OF LORDS, FEBRUARY 9, 1864.

Our relations with the federal government.

The Earl of DERBY. There is another question which I should like to put to the noble earl, but, as I have given him no notice, I will either take his answer now, or repeat my question on Thursday. The noble earl has laid various papers on the table of the house, and, among others, the correspondence with the government of the federal States of America on the subject of the Alabama. I have seen elsewhere that a considerable amount of correspondence has taken place upon another subject—namely, the remonstrances made as to injuries apprehended or sustained by American commerce from vessels sailing from British ports. I wish to know whether the government are prepared to lay upon the table that correspondence as well as the despatches relating to the Alabama; and, further, whether they are prepared to produce any correspondence containing representations on the part of the government of the apparent violation of the law by American cruisers in enforcing their rights, and also with respect to some very curious decisions which have been come to in the prize courts of the United States.

Earl RUSSELL. I can answer that question better on Thursday; but if the noble earl refers to any discussions with the American government about the iron-clads at Birkenhead, I can only say that, as that matter is about to be brought before a court of law, I shall object to produce that correspondence. As the noble earl has raised that question, I may say that on the first night of

the session he referred to a despatch of the Secretary of State, Mr. Seward, and expressed a hope that I had answered that despatch in becoming terms. Now, at the moment I did not remember having seen any such despatch, and I find since that it was a despatch written by Mr. Seward to Mr. Adams, but Mr. Adams never thought proper to lay that despatch before me, [hear, hear, and laughter;] and therefore I was spared the difficulty and the pain of giving an appropriate answer to it. [Hear, hear, and laughter.]

The Earl of DERBY. I presume that it has now been laid before the noble earl, because I see that a reference is made by Mr. Adams to the noble earl as having received, towards the latter end of August, an answer to several despatches, among which he includes the despatch of July 11, to which I referred. He could hardly have received such an answer if the despatch had not been presented.

Earl RUSSELL. I certainly do not find among the papers the despatch of July 11, and Mr. Adams informed me expressly that he did not hand it to me. That being so, I should not do so useless a thing as endeavor to get up a wrangle with Mr. Adams on a despatch which was never presented. [Hear, hear, and laughter.]

The Earl of DERBY. The whole correspondence appears to have been laid before Congress.

[From the Times of February 10, 1864.]

COMMONS, FEBRUARY 9, 1864.

The Alexandria and Alabama.

Mr. PEACOCKE asked the under secretary of state for foreign affairs whether the government would lay upon the table of the house copies of their correspondence with the government of the United States, and more especially that portion of it relating to the case of the Alexandria, and the claim by the United States government for compensation for the losses inflicted by the Alabama and other confederate cruisers.

Mr. LAYARD said that it would not be regular to present papers referring to a case which was still under the consideration of our courts. The papers relating to the Alabama had already been produced. If any others had been received since, he was not aware that there would be any objection to lay them upon the table.

Mr. PEACOCKE asked the honorable gentleman whether he would lay on the table the answer of her Majesty's government to the despatch of Mr. Seward, relating to the seizure of the Alexandria, which had already appeared in the newspapers.

Mr. LAYARD said that he was advised that it would not be right to produce any papers relating to a case which was still under judicial inquiry. [Oh, oh!]

No. 596.]

Mr. Adams to Mr. Seward.

LEGATION OF THE UNITED STATES,

London, February 12, 1864.

SIR: I have the honor to transmit a copy of a note addressed to me by Lord Russell, on the 8th instant, in reply to mine of the 19th of last month, on the report of Mr. Mallory, a copy of which was sent with my No. 580 of the 21st of the same month. It would seem, from his lordship's language, that measures



have been taken to signify to the confederates the sense of this government of the character of their operations. I do not, however, learn the precise nature of its action: neither can I find out that it has produced any alteration of their policy.

It is proper for me to mention the fact, that the genuineness of Mr. Mallory's report has been denied here by Lieutenant Maury.

The Florida is announced to have departed at last from Brest. I do not learn that the Rappahannock moves at all. There are rumors, I know not how well founded, that two mysterious vessels of war, which show no colors, are seen continually off the port.

The mission of the Kangaroo is likewise a matter of much speculation. She is controlled by the chief rebels in France, as you will probably learn more specifically from another source.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

Earl Russell to Mr. Adams.

FOREIGN OFFICE, *February 8, 1864.*

SIR: Her Majesty's government have had under their consideration the representations contained in your letter of the 19th ultimo, with regard to the alleged use of British territory for belligerent purposes by the government of the so-styled Confederate States, as shown in the report of the confederate secretary of the navy, Mr. Mallory, of which you enclosed a copy; and I have now to state to you that this document appears to her Majesty's government to contain the strongest proof, if any were wanted, that they have endeavored, in good faith, to observe strictly and impartially, under circumstances of no small difficulty, the obligations of neutrality which they have undertaken; and that the practical effect of their doing so has been advantageous, in no slight degree, to the more powerful of the two belligerents, namely, the United States.

What is termed in Mr. Mallory's report "the unfriendly construction of her Majesty's laws" is therein made matter of grave complaint against England by the government of the so-styled Confederate States, while to the same cause is ascribed the fact that those States have been prevented from obtaining the services of the greater part of a formidable war fleet, which they had desired to create.

Her Majesty's government are fully sensible of the nature and importance of the admissions made in Mr. Mallory's report of the endeavors of the government of the so-styled Confederate States, by their agents in this country and in Canada, to violate, in various ways, her Majesty's neutrality.

Her Majesty's government have already taken steps to make that government aware that such proceedings cannot be tolerated, and her Majesty's government will not fail to give to these admissions, to which you have invited their attention, the consideration which they undoubtedly deserve.

There is, however, one passage in your letter which it is impossible for her Majesty's government to pass over without especial notice; this passage is as follows: "I am further directed, respectfully, to represent that the toleration of these avowed enemies of the United States, whilst known to be carrying on these hostile practices, now fully revealed, within the British realm and its dependencies, without restraint of any kind, cannot be regarded as an exercise of the unquestioned right of sheltering political exiles, but rather as equivalent to permitting them to abuse that right, for the purpose of more effectually availing themselves of British aid and co-operation, now notoriously given them, in waging war with a country with which Great Britain is at peace."

In reply to this allegation, her Majesty's government think it right to state, that her Majesty's dominions must necessarily continue to be open to the subjects of both belligerents, as long as her Majesty is at peace with both of them; but that her Majesty's government will, at the same time, continue to put in force, as they have hitherto done, to the full extent of the means in their power, the laws of this country against those subjects of either of the belligerents who may be found, by transgressing those laws, to have abused the rights of hospitality, and to have offended against the authority of the crown.

With regard to its being made a matter of complaint by the government of the United States, that her Majesty thought fit, upon the original commencement of hostilities, to recognize the *status* of belligerents in both the parties to this unhappy contest, her Majesty's government can only repeat the observation which they have had occasion to make on former occasions, in reply to similar representations received from you, that any other course would have justly exposed this country to a charge of violating the clearest principles and soundest precedents of international law.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq.

Mr. Adams to Mr. Seward.

No. 597.]

LEGATION OF THE UNITED STATES,
London, February 12, 1864.

SIR: I have the honor to transmit a copy of Lord Russell's note to me of the 8th instant, in response to my note to him of the 20th ultimo, on the case of the *Sea Bride*, which was reported to you in my despatches No. 581 of the 22d, and 586 of the 28th of January.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

FOREIGN OFFICE, *February 8, 1864.*

SIR: With reference to my letter of the 23d ultimo, I have the honor to state to you that her Majesty's government have had under their consideration your letter of the 20th ultimo, and its enclosure, respecting the capture of the bark *Sea Bride*, of Boston, by the *Alabama*; and I have now to inform you that the governor of the Cape of Good Hope, in the neighborhood of which colony this vessel was seized, has reported himself satisfied, by the evidence adduced before him, that the capture in question was not made within British jurisdiction, and her Majesty's government, upon perusal of that evidence, have arrived at a similar conclusion.

With respect to the claim founded upon the general argument set forth in your letter of the 23d of October last, which you are instructed to present, her Majesty's government have only to repeat that they, in every respect, and most advisedly adhere to the answer which they have on former occasions had the honor to address to you, in reply to that argument.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 842.]

DEPARTMENT OF STATE,
Washington, February 13, 1864.

SIR: Your despatch of January 29, No. 587, has been received. While it is clear in statement, and full of facts bearing on the controversy of Germany and Denmark, it shows that Europe is yet uncertain whether that controversy is to ripen into war. I learn, however, from apparently reliable sources, that there is a new accord between France and Russia, and I suppose that it is not to be doubted that the latter power will harmonize with Great Britain in her sympathies with Denmark. It seems hardly probable that the popular passions of Germany will be strong enough to force Austria and Prussia into conflict with Denmark, under these circumstances.

I thank you for calling my attention to the speeches of Mr. Bright and Mr. Scofield. It seems to an American very singular that one local constituency should be represented by two statesmen so widely divergent in their political views.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 843.]

DEPARTMENT OF STATE,
Washington, February 13, 1864.

SIR: Your despatch of January 28, No. 584, has been received.

You are very right in leaving the complaint about the Kearsarge at rest, since the British government have given no further indications of discontent with the ground upon which you have placed it. The President's view in regard to it is, that we should remove, so far as is possible, every plausible ground of complaint of violation of British neutrality laws by our agents, while we claim and insist upon the enforcement of those laws against our enemies in Great Britain and her provinces. Our instructions must always be based upon the understanding we have of facts at the time the despatches leave this department. On the other hand, the whole aspect of a case existing abroad is often changed without our knowledge, before instructions from this place are received, and sometimes, indeed, before they are written. In all cases you could hardly overdraw upon the confidence of the department in your wisdom and discretion.

I regret that the conversations with Earl Russell do not warrant an expectation that her Majesty's government is likely to take into early and serious consideration the complications of our international affairs. It would seem that interested and prejudiced sympathies with the insurgents are yet strong enough in England to persuade the government to be content to leave their relations towards this government upon their present basis. It is, nevertheless, a grave question, whether, if so left, they must not inevitably fall into a worse and more perplexing condition. The state of our relations is this: Great Britain regards the insurgents as a lawful naval belligerent; we do not. Great Britain pursues a policy in regard to them based upon her view of their character. We pursue a different one. The dealings of British subjects with the insurgents in the insurrectionary region, in the loyal parts of the United States, in Great Britain, in her provinces, and on the high seas, are continually producing controversies and claims upon which the two governments cannot agree. Interested British subjects require her Majesty's government to ask of the United States explana-

tions and concessions which they cannot make; and the interests of the United States and their citizens require this government to make claims which her Majesty's government think they cannot concede. These perplexities have continually increased with the progress of the war, until it already begins to be a cause of painful apprehension in both countries, that, if peace should come to-day, it would be very difficult to adjust the controversies already ripened between the two nations. In Great Britain it is thought, or at least it seems desirable to think, that the result of this civil war is yet distant and uncertain; and this persuasion reconciles the government to a perseverance in the policy of which the United States complain. On the other hand, the war is believed here to be approaching its end, and that end is confidently expected to be a complete and perfect re-establishment of the supremacy of the Union upon foundations broader than those upon which it has heretofore stood. The two national legislatures are in session, and each is likely to act more or less under the influence of national sentiments, prejudices, and passions. Under these circumstances, each government, more or less influenced by the same sentiments actively enforced by popular legislatures, must demand more and concede less. It is the earnest desire of the President that both governments may improve the present hour by a common preparation for a peaceful, friendly, and beneficent future.

The mails which carry this despatch carry out abundant evidence that the force and strength of the insurgents are declining, that the force and strength of the Union are increasing, and that at last the element of sympathy in the free States, upon which the insurgents have hitherto relied for the growth of a faction which should come to their aid, is exhausted. It seems now as if the whole loyal part of the country is not merely prepared to surrender slavery, but to suppress and extirpate it forever. I have already indicated in a previous despatch that in the insurgent States slaves are rapidly ceasing to be an investment of capital. Thus, practically, slavery is fast disappearing from the country. What, then, shall hinder or long delay reunion? Only passions and wrongs that have already had their full satisfaction in the devastation and misery they have produced.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 599.]

LEGATION OF THE UNITED STATES,

London, February 18, 1864.

SIR: Despatches from the department, numbered 822 to 825, inclusive, have been received at this legation. This leaves 821 not accounted for. I shall endeavor to follow out the general directions which these papers contain.

More or less discussion of American affairs has been held in the House of Lords through the past week. I endeavor to send to you printed reports of them in the most complete form, as they appear in the Times. You will scarcely fail to perceive that the object of most of the speakers, who initiate the debates, is more of a partisan character to annoy and harass the ministry than to substitute any policy of their own. Thus far it does not look as if they had gained much ground. The continuance of this administration depends upon other questions than those connected with America. No material improvement has yet taken place in the state of affairs on the continent, and the uneasiness in regard to possible complications grows rather than diminishes. Whilst this lasts no serious demonstration will find much support in either house in regard to the United States.

The publication of the correspondence concerning the claims made for the ravages by the Alabama appears to create some excitement. The paper of Historicus on the subject in the London Times (see Times of February 17) is herewith transmitted. Whatever may be the degree of confidence with which that claim is resisted, so far as the original outfit is concerned, there is perceptible embarrassment in regard to the subsequent acknowledgment and reception of that vessel in British ports. I should not be surprised if some prohibitory course were before long adopted.

The first symptom of this may, perhaps, be found in the orders sent to Cape Town, which have resulted in the detention, at Simon's bay, of the barque Conrad, captured by Captain Semmes, and converted into the Tuscaloosa. I have the honor to transmit a copy of a letter from Mr. Graham, the consul at Cape Town, dated the 4th of January, and of the accompanying papers. It would seem from this that the extraordinary legal opinion pronounced by the official attorney at that place has been disavowed by the crown lawyers, and that both the barque Conrad and the cargo of the Sea Bride, so far as found, are to be restored to the legitimate owners. This decision, though obviously nothing more than is just and proper, will create both surprise and consternation among the official people in the British dependencies, who have heretofore been under an impression that the government would be languid in the enforcement of its obligations. I am encouraged to hope that the lesson which the Alabama teaches will ultimately inure to our benefit, by compelling this government to take such measures with the so-called authorities at Richmond as may either abridge their facilities of carrying on the war from this kingdom or bring down on them a sharper penalty for their perseverance.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD, &c., &c.

[Enclosures.]

1. The Times's parliamentary report, &c., February 16, 1864.
2. The Times's parliamentary report and letter of Historicus, February 17, 1864.
3. Mr. Graham to Mr. Adams, January 4, 1864.

[From the London Times, February 16, 1864.]

Parliamentary Intelligence.

HOUSE OF LORDS, MONDAY, FEBRUARY 15.

The Lord Chancellor took his seat on the woolsack at 5 o'clock.

THE BRITISH AND UNITED STATES GOVERNMENTS.

Earl RUSSELL said: The noble earl (the Earl of Derby) put some questions to me the other evening to which I was not at the time prepared to give an answer. He referred to several despatches and notes of Mr. Adams, and expressed a wish to know how far the conduct of her Majesty's government had been influenced by those communications. I have since been looking to the dates, and so far from the conduct of her Majesty's government being influenced by the notes of Mr. Adams of the 4th or 5th of September, which did not reach me until a day or two later, I find that on the 3d of September the decision was taken to detain and prevent the departure of the iron-clads from Birkenhead. On that day Mr. Layard wrote to the Treasury desiring that they should be stopped. On referring to private letters of my own I find that I wrote from Scotland to Lord Palmerston on the 3d of September:

"The conduct of the gentlemen who have contracted for the iron-clads at Birkenhead is so very suspicious that I have thought it necessary to direct that they should be detained."

And on the 4th of September I wrote to the noble lord :

"The pressing matter, however, is that of the iron-clad rams. I have desired they should not be allowed to leave the port of Liverpool."

It is therefore impossible that the course then pursued could be influenced by letters written by Mr. Adams on the 4th and subsequent days. With regard to the language used in the correspondence between Mr. Adams and myself with respect to these vessels, I do not mean to say that if the language had been more intemperate I should at all have desisted from the course which I took. As soon as I had come to the conviction that the iron-clads were intended for the confederates, it appeared to me my duty to take steps to detain them until we could obtain full evidence of their destination. I am quite of the opinion of Mr. Canning, that, whatever we do, we ought not to sneak into a war, and I thought it my duty to detain the iron-clads, believing that they were intended to depart from this country for the purpose of carrying on war against the United States. The noble lord went much into the question as to what it was my duty to represent to the United States government; and although he has not directly charged me, he has insinuated that I failed to notice Mr. Adams's language. In answer to that I beg leave to read from the papers presented to Congress, which will show the tone of the correspondence. Referring to his letter of the 16th of September, I said to Mr. Adams on the 25th of September :

"I can assure you that I am not less anxious than yourself that the duties of neutrality should be performed strictly and impartially by the government of Great Britain. There are, however, passages in your letter of the 16th, as well as in some of your former ones, which so plainly and repeatedly imply an intimation of hostile proceeding towards Great Britain on the part of the government of the United States, unless steps are taken by her Majesty's government which the law does not authorize, or unless the law, which you consider as insufficient, is altered, that I deem it incumbent on me, on behalf of her Majesty's government, frankly to state to you that her Majesty's government will not be induced by any such consideration either to overstep the limits of the law or to propose to Parliament any new law which they may not, for reasons of their own, think proper to be adopted. They will not shrink from any consequences of such a decision." [Hear, hear.]

That was the language which the noble lord must have read in the papers laid before Congress, but, having access to those papers, he did not think fit to quote it. Although the noble lord was anxious to know what language was used by me after the notes of the 4th or 5th of September, he never reverted to the despatch which I have now read. In return I got a letter from Mr. Adams in the following language :

"LEGATION OF THE UNITED STATES,

London, September 29, 1863.

"MY LORD: I have the honor to acknowledge the reception of your note of the 25th instant. I shall take pleasure in transmitting a copy to my government. I must pray your lordship's pardon if I confess myself at a loss to perceive what portions of my late correspondence could justify the implications to which you refer. So far from intimating 'hostile proceedings towards Great Britain, unless the law, which I consider as insufficient, is altered,' the burden of my argument was to urge a reliance upon the law as sufficient, as well from the past experience of the United States as from the confidence expressed in it by the most eminent authority in the kingdom. Neither do I feel any ground for the other implication. It is very true that I have deeply regretted the supposition that her Majesty's government should admit itself powerless to execute

any of those obligations which are recognized by the consent of civilized nations as well as the faith of treaties to be binding equally upon all, and I have taken the liberty to point out the consequences which follow that inability, in the absolute necessity imposed upon an aggrieved party to defend itself from the worst of injuries. This is the principle which I have been directed to maintain, not from any idea of presenting any form of condition whatever to her Majesty's government, but from a confident expectation that an address to its sense of right may avail to gain for the United States exactly the same measure of justice which it would expect from that country in return, were the respective situations reversed. If in any respect I have appeared to transgress the line of argument here laid down, I pray your lordship to consider the fault as one not of intention on my part, and not at all belonging to my government. In transmitting your lordship's note, without further comment, I shall hope to be able to submit the question in what degree its sentiments may have been in any particular misinterpreted by me. I trust that it is unnecessary for me to make any assurances to your lordship of the earnestness with which I have ever striven to maintain to the utmost of my power the relations of amity and good-will between the two countries. I pray your lordship, &c.

"CHARLES F. ADAMS."

I will not quote any more; but there was afterwards a despatch to Mr. Stuart expressing a hope that the relations of the two governments might be carried on with good-will on both sides without any misinterpretation of each other's intentions. I consider, therefore, that if there had been any intimation of a threat, that threat was entirely withdrawn [hear, hear.] and that the assurances given to us by the government of the United States were that they wished to maintain the most friendly relations. [Hear, hear.]

The Earl of DERBY. What has fallen from the noble earl shows the great disadvantage at which Parliament is placed by the refusal of the government to place before us the papers which have been already submitted to Congress [hear, hear.] leaving us to gather from scraps here and there what has been the real course pursued by the government. [Hear, hear.] The noble earl has, somewhat gratuitously, charged me with having studied these letters which he has read, and with having deliberately forborne to read them to your lordships. I never have seen one word of these letters. [Hear, hear.] I told your lordships, I think, the other evening, that I would read certain extracts from the correspondence laid before Congress which had been published in an evening newspaper. I said, too, that I knew the papers were in this country, because I had seen the volume myself; but in that volume I had not read one word. The noble earl's accusation, therefore, is totally inconsistent with the facts of the case. [Hear, hear.] I am glad to find that the noble earl's correspondence has been of a much more becoming and satisfactory tone, as far as these extracts go, than I had expected from what I had seen of the correspondence. [Hear, hear.] There is one point on which I should wish to have some explanation from the noble earl. Referring to the dates, he says that on the 3d he came to the determination that the iron-clads should be stopped. If that were the case, I want to know how it was that on the 4th there is a letter written by the noble earl to say that the matter is under the serious consideration of the government, and that it was not until the 8th that he wrote to stop the iron-clads. [Hear, hear.] If the government had come to that determination on the 3d, it would have saved much misconception if the noble earl had stated it clearly, and not written on the 4th that the matter was under serious consideration. [Hear, hear.] There is another question which I should like to ask. Has the noble earl asked the government of the United States for any explanation of the extraordinary fact that that despatch from Mr. Seward to Mr. Adams which was never submitted to the noble earl was laid before Congress as having been presented,

the American people being thus led to believe that it had been presented and received by the noble earl, and that it exercised considerable influence over our government in their determination? When the noble earl saw this correspondence, he cannot but have asked for some explanation of the fact that a despatch never delivered was actually produced before Congress as part of a diplomatic correspondence. [Hear, hear.]

Earl RUSSELL. Having heard the noble earl say that the despatches laid before Congress were contained in a bulky volume, I concluded, perhaps somewhat too hastily, that he had read it. If he did not, of course what I said entirely falls to the ground, and must be withdrawn. [Hear, hear.] As to the last question of the noble earl, I think it more affects the conduct of the United States government towards their own people than their conduct towards us. It is the habit—and the wise habit, I think—of Mr. Adams to weigh over the despatches which he receives, and when they contain complaints, to consider how he can most effectually urge these complaints, and to endeavor to perform his duty in the most conciliatory spirit possible. [Hear, hear.] I can only say that Mr. Adams has pursued that course from the first. Almost the first time I saw him he told me that he had several despatches couched in strong terms, but he did not think it discreet to read them to me, and he then went on to describe in his own language what the complaints of his government were. I think the conduct of Mr. Adams is calculated to maintain friendly relations between the two governments. I certainly, at present, don't see the necessity for asking Lord Lyons to call Mr. Seward's attention to the presentation of this despatch to Congress. No doubt a certain effect may be produced by the publication of that despatch, especially when it is discovered that it never was presented.

The Earl of DERBY. I never threw out the slightest imputation against Mr. Adams; on the contrary, I said that he had throughout exercised a wise discretion, and shown himself the friend of the two countries. The noble earl surprised me by saying that Mr. Adams had communicated to him the substance of this despatch.

Earl RUSSELL. No; what I said was that it was Mr. Adams's habit, when there was any substantial grievance to complain of, to communicate to me his views of the despatch. [Hear.]

The Earl of DERBY. The noble earl has not told us how it happened that, having come to the decision on the 3d to stop the steam rams, he wrote on the 4th to say that the matter was under consideration.

Earl RUSSELL. The matter was still under correspondence at the time. Mr. Layard had written a letter to the Treasury, and the matter was under consideration still in the Treasury, and we had to wait for their answer. I being in Scotland at the time, my letter, I suppose, would not reach Mr. Adams until a day or two after. When the matter was under consideration between two departments, we did not think it necessary to tell the parties that it was determined.

The Marquis of Clanricarde thought it would be of great advantage if some means could be devised for exchanging parliamentary papers with foreign legislatures. This had been done with France in former times. He would suggest to the government to lay this American volume before Parliament, for, of course, Lord Lyons had communicated it to his government. He communicated last year's volume, and it was laid in due course before Parliament.

Earl Granville thought it would hardly be advisable for the government to take upon themselves to lay before Parliament the blue-books, yellow-books, and other papers published by foreign governments.

The subject then dropped.

HOUSE OF LORDS, TUESDAY, FEBRUARY 16.

BRITISH AND AMERICAN CLAIMS.

The Earl of CAERNARVON, in moving for a return of claims made by British subjects upon the United States government, sustained either in person or property since the secession of the southern States, specifying how and the grounds on which such claims have been disposed of, and for any further information as to claims made by the United States government upon her Majesty's government for damages alleged to be done to American ships by the Alabama and other confederate cruisers, said: The notice which I have given divides itself into two parts. The first part asks for a return of all the claims made on the American government by British subjects for injuries sustained either in person or property since the commencement of the civil war. I presume there can be no real objection to this part of the return. It is not open to the objection that it may prejudice negotiations in progress, because it is simply for a summarized statement of the particular claims which have been made, and the grounds on which they have been accepted, rejected, or disposed of by the American government. I can easily understand that it may not be quite practicable to make that return complete, but I shall be quite satisfied if it approximates to the truth, and puts the house and the country in general possession of the facts. I can easily believe that, under the circumstances, many claims may have arisen to which many counter claims and objections may have been made, but I should be the last person to show any want of forbearance to the government of a country situate as the government of the United States is. Wherever we may assume a *bona fide* intention on the part of the federal government to do that which is right, we ought not to be very minute indeed in marking that which has been done amiss. With regard, too, to those British subjects—and the case is by no means an unfrequent one—who have gone out to the United States within the last few years with the intention of acquiring the rights of American citizens, and consequently of divesting themselves of their nationality and allegiance to the crown, which they have only been prevented from carrying out by recent events—though they may not have forfeited the protection which the British crown extends to all its subjects everywhere, still they do not come into court with a very satisfactory case, and do not possess a very strong claim on the consideration of Parliament. But in the case of persons who are clearly British subjects, and who on mere suspicion have been arrested, put into prison, subjected to indignities and hardships—sometimes even imperilling their lives—her Majesty's government, I think, are bound to require the amplest compensation and redress. [Hear, hear.] Then, again, there is another class of British subjects who are in a position to make claims for redress. There are British subjects who have engaged in a legitimate trade, and who, while acting in conformity with international law, have seen their ships condemned in American prize courts on principles which, if correctly reported, are of a very questionable nature. I have always maintained that we, who in former wars have jealously maintained certain principles of international jurisprudence, ought not to depart from those principles now that our position is reversed, and we have become neutrals instead of belligerents. If the statements we have received of the judgments in the American prize courts be correct, there can be no doubt that neutral rights are on the verge of extinction. [Hear, hear.] There are two cases on which I must say one word. The first is that of the Saxon, which must be familiar to all your lordships. That ship was an English ship, and was taking in a cargo at an island at no short distance from one of our settlements on the coast of Western Africa. It is said that the island had been annexed by proclamation to the Cape Colony in 1861, by Sir G. Grey, but that that proclamation had never been confirmed. I believe that, looking to the practice of the colonial

office, it will be found that proclamations of this sort have not been ratified sometimes for one, two, and three years after. The ship was taking in her cargo, and on the point of sailing, when she was boarded by an armed boat's crew from the federal vessel, the Vanderbilt. The captain was sent down below, and the American lieutenant ordered the crew below. The mate of the Saxon was going down the ladder when the lieutenant pushed him on the shoulder, and, as the unfortunate man turned round to see who it was pushing him, pulled out a revolver and shot him dead. If this statement be true, there certainly never was a more wanton, atrocious, or barbarous murder committed on the high seas. [Hear, hear.] The captain of the Vanderbilt is said to have expressed his regret, but I hope that the government will require something more than a mere expression of regret. [Hear, hear.] The only compensation which can satisfy the honor of the country and the justice of the case is to bring the offender to speedy trial and to execution, if the case be proved against him. This transaction took place in the middle of September. It is not a case which can require much communication or negotiation; and I hope, therefore, that the noble earl will be able to lay the correspondence on the table, or name an early day for its production. There is also another case to which I wish to call the noble earl's attention. I see it stated in the newspapers that a confederate vessel, the Tuscaloosa, has been seized, by order of the government, in Simon's bay. That ship is referred to in the papers recently laid before Parliament, and she is stated to have been a federal ship originally, which had been captured by the Alabama, and turned into an armed tender to that vessel. She appeared at the Cape last year, when the United States consul demanded that she should be detained. The governor, however, did not consider himself at liberty at that time to take that course. The facts were brought under the consideration of the home government, and this is what the noble earl wrote on the subject:

"As regards the Tuscaloosa, although her Majesty's government would have approved the British authorities at the Cape if they had adopted towards that vessel a course different from that which was adopted, yet the question as to the manner in which a vessel under such circumstances should, according to the tenor of her Majesty's orders, be dealt with, was not one altogether free from uncertainty. Nevertheless, instructions will be sent to the British authorities at the Cape for their guidance in the event of a similar case occurring hereafter, and her Majesty's government hope that under those instructions nothing will for the future happen to admit of a question being raised as to her Majesty's orders having been strictly carried out."

No doubt the instructions here mentioned are those on which the authorities of the Cape acted, and I trust that the noble earl will have no objection to lay them on the table. I come now to the second part of my notice, which refers to claims put forward by the United States government for damages alleged to have been done to American ships by confederate cruisers. Your lordships have doubtless seen the correspondence relating to the Alabama, which, though not long, contains matter of serious importance. It comprises five different kinds of applications from Mr. Adams on the part of the United States government. The first application was made on the 19th of February, and was presented in consequence of the destruction of the Brilliant and the Manchester, and repayment was demanded for the value of the cargo and ship, with interest thereon. On the 9th of March the noble earl replies to Mr. Adams and disclaims all connexion with the Alabama, and all responsibility for the mischief she may have done. On the 29th of April another claim was made by Mr. Adams on account of the destruction of the Golden Rule, which was simply acknowledged by the noble earl. Again a third application was made on the 7th of July, and on the 13th of July the noble earl returned an answer referring to his first despatch, and again disclaiming all responsibility for the acts of confederate cruisers. On the 24th of August there came another claim for the

destruction of the ship *Nora* by the *Alabama*, and I should like to read to your lordships the description there given of the *Alabama*. The owners of the ship, in their memorial to Mr. Seward, say:

"The vessel calling herself the Confederate States man-of-war *Alabama* is an English vessel, and no other.

The said steamer was allowed to leave port under the pretence of making a trial trip, and has never been in any port of the so-called Confederate States, so as to change her flag, or to be otherwise than a British vessel.

"Your memorialists would further represent that said steamer, after thus fraudulently leaving the ports of Great Britain against the Queen's proclamation of neutrality, repeatedly visited or came within the jurisdiction of certain British islands in the Atlantic ocean, when and where it was well known and patent to the world that she had destroyed American vessels on the high seas; and instead of being seized and detained by the British government, as they were in duty bound to do, was allowed every facility for obtaining supplies and advice, and to resume her piratical cruise.

"In view of these matters, your memorialists do now and forever enter their solemn protests against the British government and people as willing parties, negligently culpable in the destruction of their property on the high seas, and thus in first violating the proclamation of the Queen by building and manning said steamer, and then allowing her to continue her depredations."

These are the terms in which the *Alabama* is described, and the terms on which the claims of the American marine are urged upon the British government. A few days after the noble earl repeats his disclaimer, and winds up with the hope—very properly expressed, I think—that no such claim may ever be brought under the consideration of her Majesty's government again. But the application to which I would call the especial attention of the house is that referred to in a letter from Mr. Adams, dated the 23d of October. In this letter Mr. Adams reviews all the charges he had previously made with regard to the depredations of the *Alabama*, and then proceeds:

"Upon these principles of law, and these assumptions of fact, resting upon the evidence in the case, I am instructed to say that my government must continue to insist that Great Britain has made itself responsible for the damages which the peaceful, law-abiding citizens of the United States sustain by the depredations of the vessel called the *Alabama*."

I would ask your lordships to observe the similarity of that language with the language used in the despatch of the 11th of July, which has been so much spoken of. [Hear, hear.] There is, however, this difference—that in the letter from which I have just quoted Mr. Adams proceeds to qualify his language in these terms:

"In repeating this conclusion, however, it is not to be understood that the United States incline to act dogmatically, or in a spirit of litigation. They desire to maintain amity as well as peace. They fully comprehend how unavoidably reciprocal grievances must spring up from the divergence in the policy of the two countries in regard to the present insurrection. They cannot but appreciate the difficulties under which her Majesty's government is laboring from the pressure of interests and combinations of British subjects, apparently bent upon compromising by their unlawful acts the neutrality which her Majesty has proclaimed and desires to preserve, even to the extent of involving the two nations in the horrors of a maritime war. For these reasons I am instructed to say that they frankly confess themselves unwilling to regard the present hour as the most favorable to a calm and candid examination by either party of the facts or the principles involved in cases like the one now in question. Though indulging a firm conviction of the correctness of their position in regard to this and other claims, they declare themselves disposed at all times, hereafter as well as now, to consider in the fullest manner all the evidence and the arguments

which her Majesty's government may incline to proffer in refutation of it; and, in case of an impossibility to arrive at any common conclusion, I am directed to say there is no fair and equitable form of conventional arbitrament or reference to which they will not be willing to submit."

On the 26th of October, three days afterwards, the noble earl, in answering that despatch of Mr. Adams, uses these words:

"You add, further on, that the United States frankly confess themselves unwilling to regard the present hour as the most favorable to a calm and candid examination by either party of the facts or the principles involved in cases like the one now in question."

Up to that despatch I entirely assent to nearly every word used by the noble earl in this correspondence. I feel persuaded that it contains not merely the drift, but the plain view, of the intentions of her Majesty's government. It appeared to me that from the first the noble earl had distinctly declined all responsibility connected with the building of the Alabama, and with the depredations which she was alleged to have committed. Nothing can be plainer and more complete in every way than the noble earl's language; but after all this the noble earl ends by accepting the proposal for an arbitrament.

EARL RUSSELL. No.

The Earl of CARNARVON. At a future period?

EARL RUSSELL, (emphatically.) No.

The Earl of CARNARVON. The noble earl says "no;" but, on reading the despatch from which I have just quoted, can any one come to any other conclusion than that the noble earl did accede to the proposal for arbitration at a future period? Mr. Adams asks for arbitration, and the noble earl says:

"With this declaration, her Majesty's government may well be content to await the time when a calm and candid examination of the facts and principles involved in the case of the Alabama may, in the opinion of the government of the United States, usefully be undertaken."

I very much regret, whatever may be the intentions of the government, that the noble earl ever used such language as that; because, after all, arbitration applies to a question in which there is some doubt; but if there is a perfectly clear right—a perfectly unquestionable one—then men do not arbitrate. [Hear, hear.] If her Majesty's government feel any doubt as to the propriety of the position which they had taken throughout the previous correspondence, let them say so. It is never too late to go back if one has committed an error; and here I must observe that the noble earl did use an ominous expression—namely, that the case of the *Oreto* and the Alabama was a scandal and a reproach to English law. [Hear.] If the noble earl is decided and clear in his opinion, he had better say so. If he believes that those claims are founded neither on reason nor on justice, then he should hold out no shadow of hope that they can by any possibility be admitted. It is unwise to endeavor to tide over a present difficulty by creating a much greater one for a future time. [Hear, hear.] I would urge upon her Majesty's government, as far as my feeble voice can do so, to bring this matter to a conclusion. I entirely agree in the opinion expressed by the noble earl in his earlier despatches, that there is no ground for those claims; but it would be far better to admit and satisfy them, at whatever expense, than to allow the matter to go on, and at length to be compelled to undergo the humiliation of eating every word you have said. [Hear, hear.] My lords, I cannot see that there is any practical advantage in leaving a question of this sort unsettled. [Hear, hear.] There are two classes of politicians, as this house must know, in America, who look at this matter from different points. One class—composed of, I believe, honest men, but men holding, as I think, very mistaken views—are convinced that the Alabama sailed from these shores through the fault and negligence of her Majesty's government, and hold us accountable for the damage which she has done to the American marine. The American estimate of the amount of that

damage is a very heavy one. According to that estimate, 149 American ships were destroyed or bonded from the time of the sailing of the *Alabama* to the 30th of June, 1863. The tonnage of those ships is stated to be 61,292 tons, which, at a valuation of £10 per ton, amounts in money to a loss of £612,920. To this is added a sum of £20 per ton, making a total of £1,100,030 as the value of the cargoes, and a sum of £700,000 for Chinese cargoes, which brings up the entire loss to £2,412,920. I do not know whether this is a correct estimate, but there can be no doubt that great injury has been done to American commerce. This is shown by the heavy rates for insurance. [Hear, hear.] Well, my lords, the class of American politicians to whom I have already alluded are smarting under a sense of personal injury, and they urge their claims against our government in no measured language. And I must say that the government of America, from whatever motive, have so lent themselves to their views that hereafter, when this sum grows up and becomes a very much larger one, it will be absolutely impossible for that government to restrain the machinery which they themselves put in motion. [Hear, hear.] I therefore think it is most important that her Majesty's government should bring this matter to a settlement one way or the other. The second class of American politicians to whom I have alluded wish that these claims shall be withheld until the day of America's opportunity, when she should offer us hostility or national humiliation. And, my lords, in our political intercourse with America, if there be any conclusion which we ought to have drawn, any lesson which we ought to have learnt, it is this—that the policy of English statesmanship ought to be to limit these debatable questions, and not allow them to be kept open. [Hear, hear.] You might number up a score of those questions, which by being kept open affected very considerably the good relations between the two countries, caused great agitation both here and in America, and at times threatened very disastrous consequences. Among these were the Oregon and fisheries questions. Lastly, not many years ago, a dispute arose with regard to the boundary line. The island of San Juan was taken possession of by a hot-headed American officer, and it was only owing to the exercise of great tact and forbearance on both sides that hostilities were averted. Now, it should be the object of good statesmanship to put an end as soon as possible to all these questions of debate and litigation. But in these despatches, whether intentionally or not I do not know, you hold out, in order to tide over the present difficulties, vague, shadowy hopes of some means by which differences may be reconciled. You thus deliberately create, in order to relieve yourselves from present embarrassment, a difficulty which may be ten times as formidable and ten times as dangerous as existed at first, inasmuch as it will then be backed by stronger material interests, will be founded on personal considerations, and in all probability will be supported by an unreasoning mob. [Cheers.]

EARL RUSSELL. The noble earl seems to suppose that I shall have no difficulty in granting the first part of his motion, relating to the returns of vessels. Now, so far as her Majesty's government are concerned, there will be very little difficulty in giving any information that is asked for as to representations which have taken place on the part of the government; but when I consider the public utility to be served by this motion, I cannot encourage the noble lord to press it. The fact is, that these despatches upon cases arising from time to time, and almost from day to day, become formidable in point of extent. I saw in the foreign office to-day a volume, not indeed a very thick one, but one of several folio volumes, many of them exceedingly thick, which are said to contain about half of the returns which the noble earl moves for. Now, I ask, what would be the advantage of producing, what would be the advantage of printing, for this house, such a voluminous return of cases that have arisen between this country and the United States? I am quite sure that my noble friend would hardly think of pressing a motion of such a character. And if there is no ad-

vantage in it, there may be some disadvantage; because if hereafter there were to be any commission on these claims, the American government would probably take the evidence which had been laid before Parliament as complete with respect to them. They would say: "There is your case. It has been laid before the foreign office; it has been presented to Parliament and printed, and it is impossible to go beyond it." If, therefore, these cases were printed, and a commission on claims were hereafter appointed, persons who had claims, and who were prepared to produce further evidence in support of them, might be precluded from the full benefit of that evidence. I cannot, therefore, think that there would be any advantage in producing this voluminous mass of papers. The noble earl seemed to think that our commerce was nearly extinct. [The Earl of Carnarvon dissented.] I took down the noble earl's words, and he certainly said that our commerce on the southern coast of America was on the verge of extinction. Now to what do these words apply? It is known that this trade of blockade-running has been a most profitable trade, that great fortunes have been made by many persons in carrying it on, and that Nassau and some other places have swarmed with vessels which had never previously been seen in those ports. That a great number of vessels have been stopped by the American cruisers I readily admit. The noble earl says that the judges of the prize courts in the United States have given decisions some of which are not based upon principles of international law. Now I say here, what I have frequently had occasion to say before, that we are bound in the first instance to accept these decisions; and I think the complaints which have been made very often arise, and naturally arise, from ignorance of the principles of international law, as laid down by Lord Stowell and other great jurists in this country. It has been many times complained of that a vessel bound from this country to Nassau should be captured on her voyage while upon the high seas, and should be sent for adjudication before an American prize court. Evidently the persons who make that complaint think it quite sufficient if the nominal destination was Nassau, and do not take into consideration the circumstance that, if Nassau was not the ultimate destination, but it was merely meant that the vessel should touch at Nassau, and then, without transshipment, carry her cargo into the blockaded port, that vessel, according to the principles laid down by Lord Stowell, would be liable to capture. But it is natural that this should be forgotten when for so many years these belligerent rights have been in abeyance, and the result is that many of the persons who have employed their capital in this manner are severe sufferers. With regard to the Saxon, we were advised that that vessel was taken, not in British, but in foreign waters. The noble earl says that the law officers of the crown must have been completely wrong, because it was quite sufficient if the governor of the Cape had declared the island of Angra Pequena to be a British possession. Now I do not think that we should be guided by such a declaration in an analogous case. Suppose that on the coast of Africa a slaver was taken by one of our cruisers near an island; it would not be sufficient to prevent the capture by the statement that the governor of the neighboring French or Portuguese settlement had declared that island to belong to France or Portugal. We should say at once, "Have the French and Portuguese governments confirmed that declaration?" and if they had not, we should hesitate to acknowledge that the island belonged to either country. The argument which we should use ourselves we ought to accept from another nation; and acting, therefore, on the opinion of the law officers of the crown, I did not assert that this vessel had been wrongfully captured. What was affirmed by the American captors was, that the Saxon had received from the Alabama and the Tuscaloosa part of the spoil which they had taken from American vessels. The noble earl refers to what appears to us, if the information we have received be accurate, to be the wanton and barbarous murder of the mate of the Saxon. All that we could ask in such a case was that the person accused of that crime

should be tried, and should be brought as soon as possible before a tribunal in which the charge could be fairly examined into. That, accordingly, is the demand which we made. The noble earl says it was no satisfaction that the captain of the Vanderbilt expressed his regret. But I do not know what more he could do. He did not order that the mate of the Saxon should be killed. He had no concern in the murder, but when he heard of the occurrence he expressed his regret. He could not immediately order a trial and have the man convicted and executed.

The Earl of CARNARVON. Did the captain order the man under arrest? [Hear, hear.]

Earl RUSSELL. That is a point upon which we have no information. [Opposition cheers.] But certainly I do not think it an injury that the captain expressed his regret at the occurrence. I believe it is stated in the newspapers that the man was afterwards put under arrest; but that is only a newspaper report. With regard to the Tuscaloosa, that vessel was captured by and was a prize to the Alabama. The law officers gave it as their opinion that she should have been detained, and orders were sent out in conformity with that opinion. She has now been detained, and it will be for the noble earl to show that the law officers were wrong in that opinion, and that upon grounds of public law known to himself her Majesty's government should have taken another course. I now come to the noble earl's statement with regard to the Alabama, and I cannot say how much I feel indebted to him for enabling me to clear up a misconception which, as it has affected his mind, may also have affected others in the same way. My lords, her Majesty's government have always maintained that they were in no way responsible for the hostilities against the merchant ships of the United States committed by the Alabama. [Hear, hear.] We have maintained that position from the beginning; we shall maintain it to the end. The noble earl seems to suppose that in a letter of mine of the 26th of October I admitted that these questions would afterwards be referred to a commission. My lords, I admitted nothing of the kind. [Hear, hear.] I stated then, as I have always stated, that her Majesty's government was not responsible for the acts of the Alabama. The United States minister may have in view some kind of commission or arbitration; but her Majesty's government have never consented, and never would consent, to a commission or arbitration. [Hear, hear.] According to all the principles of international law, her Majesty's government are in no way responsible for the doings of the vessel referred to. There has been a question of a commission, but we have always thought that a commission would be of no use, because the United States government would be sure to propose that the case of the Alabama should be referred to the commission, and it is quite impossible that we could consent to that. Therefore we have never proposed what under ordinary circumstances would be a proper course; we have never proposed a commission to consider the respective claims of the subjects of each country, and which the United States government intimated they were ready to agree to, because we knew that it would be proposed to include the case of the Alabama, which we were determined not to consent to. [Hear, hear.] I say, therefore, the government may well await the time when a calm consideration of the principles involved in the case of the Alabama can be given. Every one is aware that for a long time there has been great excitement in America upon the subject of the Alabama; that she has been called a British pirate, and the American nation has been roused to anger against this country for the doings of the Alabama. I say that when the United States government say they do not wish to press that question further now, it is fair to believe that a time may come when the United States government, considering all the precedents laid down by their own judges as well as by British judges, will be satisfied that they have no claim against this country on account of the Alabama. My expression was not intended to convey the notion that the British government would change their minds, but that the United States

government would change theirs when the excitement of the moment had passed away. Therefore I go on to say:

"The British government must decline to be responsible for the acts of parties who fit out a seeming merchant ship, send her to a port or to waters far from the jurisdiction of British courts, and there commission, equip, and man her as a vessel-of-war."

And I further say, that if "an admitted principle was thus made elastic to meet a particular case, the trade of ship-building in this country would be seriously embarrassed." The noble earl, in a manner unaccountable to me—for it never from the time I wrote that letter until now occurred to me that such a meaning could be applied to it, and that it could be understood as admitting a future examination of this case—the noble earl says it is desirable that these cases should not be kept open, but that they should be settled at once. I quite agree with him, if there is any amicable way in which they can be settled. The American government says, "We have a clear and undoubted case for reparation on account of the Alabama." We say, "We have a clear and undoubted case for refusing reparation in the case of the Alabama." Who is to be the arbitrator, unless we resort to that method of arbitration which the noble earl thinks I agree to? In no way can this question be settled, unless the United States should push us to the verge of war for the purpose of getting this question settled. The United States government must say, "We have a good case, but we are ready to keep it in abeyance, and to continue on terms of amity and friendly relations with great Britain, if Great Britain will consent to do so." Am I to say, "We will not agree to anything of the sort. Why do you not make war upon us? Why not push your claims to the utmost extremity?" That is the case of the noble earl. He says it is desirable to have these questions settled, and not to have them hanging over us. It is desirable indeed; but how is it to be done while the positions of the two countries are so entirely opposed? I have had the good fortune, in some cases, to put an end to matters which had long been causes of dispute between this country and the United States. For many years there was a dispute pending upon the question of the Mosquito Shore and of the Bay Island. The President of the United States said at the time, "If this be the only question of difference," as I believe it was until the secession occurred; "if this be the only question of difference we have with the government of Great Britain, let us endeavor to settle it." I for my part was quite ready to make concessions of what might be considered fair claims on the part of the British government in order to settle the dispute, and happily I was enabled to make a treaty which put an end to that dispute. There was another question which arose since the Ashburton treaty, and which went on for some years, respecting the Hudson's Bay Company, and that dispute it was agreed to refer to arbitration, and a convention has been made for that purpose. So I am by no means indisposed to settle these questions, which, as the noble earl truly says, ought to be settled if they can be settled. There is also the question of the island of San Juan, adjoining Vancouver's island, and in that question also I proposed an arbitration, which proposal has been for some time under the consideration of the United States government. That government thought the Senate could not agree to arbitration, but I trust there will be an agreement upon that question also. I think it would be much better that the question relating to the island of San Juan should be decided by an arbitrator than that it should remain a cause of dispute between the two countries. Referring again to the Alabama, the noble earl seems to be much shocked because I said that that case was a scandal and in some degree a reproach upon British law. I say that here, as I said it in that despatch. [Hear, hear.] I do consider that, having passed a law to prevent the enlistment of her Majesty's subjects in the service of a foreign power, to prevent the fitting out or equipping, within her Majesty's dominions, of vessels for warlike purposes without her Majesty's sanction; I say that, having passed such a law in the year 1819, it is a scandal and a

reproach that one of the belligerents in this American contest has been enabled, at the order of the confederate government, to fit out a vessel at Liverpool in such a way that she was capable of being made a vessel-of-war; that, after going to another port in her Majesty's dominions to ship a portion of her crew, she proceeded to a port in neutral territory, and there completed her crew and equipment as a vessel-of-war, so that she has since been able to capture and destroy innocent merchant vessels belonging to the other belligerent. [Hear.] Having been thus equipped by an evasion of the law, I say it is a scandal to our law that we should not be able to prevent such belligerent operations. [Hear, hear.] I venture to say so much, because at the foreign office I feel this to be very inconvenient. If you choose to say, as you might have said in former times, "Let vessels be fitted out and sold; let a vessel go to Charleston, and there be sold to any agent of the confederate government," I could understand such a state of things. But if we have a law to prevent the fitting out of warlike vessels, without the license of her Majesty, I do say this case of the *Alabama* is a scandal and a reproach. A very learned judge has said that we might drive, not a coach and six, but a whole fleet of ships through that act of Parliament. If that be a correct description of our law, then I say we ought to have the law made more clear and intelligible. This law was said to be passed to secure the peace and welfare of this nation, and I trust it may be found in the end sufficient for that purpose. I say, however, that while the law remains in its present state its purpose is obviously defeated, and its enactments made of no effect by British subjects who defy the Queen's proclamation of neutrality. To these observations I will only add, that, if the noble earl wishes for any other paper relating to the *Alabama*—I believe there is only one—I should be willing to give it, but as to the folio volume of papers to which I have before referred, I hope the noble earl will not press for their production.

The Earl of CARNARVON did not wish for the correspondence *in extenso*, but would be satisfied with short summaries of each case, containing such details as names, dates, and amounts of claim. There would surely be no difficulty in producing such information. He thought their lordships would feel that he had been naturally misled, and was justified in asking further explanation. He accepted the explanation the noble earl had given him; he rejoiced to receive it, and was quite satisfied with it. He hoped there would be no objection on the part of the noble earl to produce the papers in the case of the *Saxon*. [Hear, hear.] That transaction had occurred between five and six months ago, and the negotiations in that case were surely complete. It was most important that Parliament should know precisely the position in which it stood in reference to such matters; [hear, hear;] and when the noble earl challenged him to prove his case, although he was quite ready to take up his challenge, he could not do so unless the noble earl supplied him with the materials. He should only press for a copy of the instructions which were sent out to the colonial authorities at the Cape of Good Hope, and on which they had acted in the case of the *Tuscaloosa*. He hoped there would be no objection to give a copy of these instructions.

Earl RUSSELL would have no objection to the motion of the noble earl, on the understanding that names, dates, and other details of that kind only were to be given. With regard to the papers connected with the case of the *Saxon*, he was quite ready to produce them, if the noble earl would move for them.

The Earl of CARNARVON then moved for the papers connected with the case of the *Saxon*, and the instructions to the authorities at the Cape of Good Hope with reference to the *Tuscaloosa*.

Earl RUSSELL said it would be necessary to communicate with the colonial office in regard to the instructions to the authorities at the Cape.

The motion with respect to the *Saxon* was then agreed to.

Their lordships adjourned at 20 minutes after 6 o'clock.

THE CASE OF THE ALABAMA.

To the Editor of the Times :

SIR : It is greatly to be regretted that there should be found politicians on both sides of the Atlantic who seem for party objects to desire nothing better than to inflame and exasperate national animosities by demands and recriminations which are neither justified by the doctrines of law nor founded in the principles of justice. It is some consolation, however, to think that, while in America this course has been resorted to by the responsible government of the country, in England it has only found favor with an irresponsible opposition. Some recent orators in both houses of Parliament have been laboring to stimulate public indignation by endeavoring to persuade us that we have been the tame and spiritless victims of unmerited ill-usage. This view of the subject is founded on peculiar notions of law which they have thought fit to assume, and in accordance with which they have undertaken to criticise the action of the English government, and to denounce the conduct of the American prize courts. It is, however, satisfactory to observe that the vehement sallies of these unprofessional partisans have received no countenance from the eminent lawyers of whom the conservative party are justly proud. While these attacks rest on the unsupported authority of party politicians, they are not likely to make much impression on the public mind, or to work any considerable national mischief.

I am glad to observe that the attorney general—than whom on such a subject no higher authority is to be found—has fully confirmed the opinion which I have ventured on former occasions to express as to the general rectitude and fairness of the American prize courts. The grounds on which the decision in the case of the *Springbok* have been attacked show that the critics of the American judges are very little conversant with the elements of the subject they have undertaken to discuss. It is assumed that a shipment whose immediate and ostensible destination is to a neutral port is necessarily and absolutely in all cases innocent. This is, no doubt, as a general rule, true, but it is equally certain that, if this destination be only a section of a voyage whose real and ultimate intention is to a belligerent port, the mere interposition of a neutral resting-place will not alter the real character of the transaction. The whole voyage will be regarded according to the reality, and not according to the appearance, and will be dealt with according to its real and ultimate, not according to its apparent and immediate, destination. This principle rests on the foundation of that which is known to jurists as the doctrine of continuous voyages. Those of your readers who may care to pursue this interesting and somewhat complicated question any further will find the authorities collected and discussed in two letters I printed on this subject in the summer as a supplement to my collected letters. The weight of the opinion of the attorney general may now be added to the authorities which are there cited.

But, while it is to be deplored that inconsiderate speakers in this country should disturb the public mind by unfounded complaints, it is still more a subject of regret and censure that the government of Washington, who can hardly plead the excuse of ignorance in these matters, should pervert the judgment of their own countrymen by persistent assertions of claims which they must know to be wholly unjustifiable. I have already in former letters, and especially in one which I had the honor to address to you on November 7, 1863, examined in detail the pretensions which the American government have advanced against England in respect of the captures of the *Alabama*. I do not propose to repeat the arguments, for I have never seen any attempt to dispute their conclusions. With every disposition to look at the matter in an impartial spirit, I do not believe that it is possible to find any basis, either of authority or of reason, to give

color to such a claim. Upon this point the law and practice of nations alike are clear and settled. It is the *right* of every neutral state to prevent the violation of its sovereignty by the equipment within its territory of belligerent armaments. In a certain but more imperfect and restricted sense it is its *duty* to do so. But the injury arising from the violation of this right is an injury primarily and essentially to the neutral and not to the belligerent. The neutral is in no sense an insurer to one belligerent against the wrongful acts of the other belligerent. Nor can any claim in the nature of damages arise against the neutral in respect of an injury which the neutral has involuntarily sustained. These are principles founded in reason, and established by authority, and they are decisive against the American claim.

But the former American practice is equally conclusive against their present pretensions. During the course of the war between Spain and her revolted colonies in South America the ports of the United States became the grand *officina* of the rebellious privateers. The South American seas were covered with cruisers fitted out in the American ports in violation of their foreign enlistment act. The instances of adjudication on suits for the restitution of prizes taken by these privateers in the American law books are numerous, but we may be quite sure that the recorded cases indicate a very small percentage of the captures thus effected. That being the state of things, the course adopted by the American courts and the government was this: When a prize captured by a cruiser thus unlawfully equipped was brought within the jurisdiction of the United States the prize was duly restored by legal process to its original owner. The government of the United States did not pretend to deal with the cruiser herself, (*vide* the facts and the judgment in the case of the *Santissima Trinidad*;) they distinctly repudiated all authority and liability in respect of captures by such vessels not brought within their jurisdiction, (*vide* "*La Amistad de Rues*," 5 *Wheaton's Reports*.) And I venture to challenge the American government to produce a single example in which they acknowledged any claim to compensation for prizes taken by cruisers equipped within their ports to "prey upon the commerce" of Spain, or attempted any other redress than that of the restitution in *specie* of prizes brought *infra præsidia*. The terms of the Jay and Grenville treaty between Great Britain and the United States in 1795 (which was discussed at length in my letter of November 7) are, when properly understood, equally conclusive against the present pretensions of America. That being the case, it is lamentable, indeed, to see a responsible government, for the temporary political purposes of the moment, inflaming the passions and perverting the judgment of the nation with whose destinies it is charged, by preferring claims which it cannot sustain in right, and which it is notorious it is without the means of enforcing by might.

Before I quit this topic I must ask leave to offer a few remarks on some circumstances disclosed by the last papers on the subject of the Alabama laid upon the table of Parliament, (North America, No. 1, 1864,) which are likely to give rise to new questions of considerable delicacy and difficulty. The circumstances to which I refer will be found narrated at pp. 19-25 of the Parliamentary Paper, and have reference to certain transactions which took place at the Cape of Good Hope in the course of last summer. The material facts, if correctly stated, seem to be these: On July 28, 1863, the Alabama entered the bay of Saldanha for the purpose of repainting, and remained there till August 4; on August 5 she sailed for Table Bay, and within sight of the persons on shore, though apparently at a distance of more than three miles, captured the federal bark *Sea Bride*. The captain and the crew of the *Sea Bride* were taken on board the Alabama and *put in irons*, and seem afterwards to have been landed at Cape Town. After the capture was effected it is asserted that the prize was brought within a mile and a half of the English shore in charge of a prize crew, and it appears that attempts were made to sell the prize to some specu-

lators at Cape Town. What ultimately became of the *Sea Bride* does not appear upon the papers. Now, assuming the facts thus stated to be correct, and there is no intimation on the face of the papers that they are disputed, some important questions arise.

And, first, ought the *Alabama* ever to have been allowed to enter the bay of Saldanha at all? I confess I am very strongly of opinion that she ought not. As soon as the war between the federal and confederate states broke out the English government defined the exact terms and conditions on which the ships-of-war of both nations should be admitted into our ports. In our character as a neutral nation we extend impartially to both such a limited hospitality as shall keep us clear from any participation in their hostile pursuits. To this hospitality so defined the duly commissioned vessels-of-war of both belligerents are clearly entitled so long as our regulations remain unaltered. It is equally certain, however, that we are at perfect liberty to make precisely what rules upon the subject we think fit. The principles of the rights and duties in this respect of neutral states are laid down with admirable clearness in the case of the *Exchange*, (7 Cranch Rep.) one of the greatest judgments, perhaps, ever delivered in a court of law. If the *Alabama* is admitted into our ports it is undeniable that while she is there she is entitled, as a properly commissioned vessel-of-war, to enjoy the immunity of her flag. The legality of her origin cannot be inquired into, so as to authorize the neutral state, or any one else, to exercise jurisdiction over her. Still the question remains, ought the *Alabama* to be admitted into our ports at all? Now, it is a sound and salutary rule of international practice, established by the Americans themselves in 1794, that vessels which have been equipped in violation of the laws of a neutral state shall be excluded from that hospitality which is extended to other belligerent cruisers, on whose origin there is no such taint. Accordingly, the cabinet of Washington compelled all the French privateers which had been illegally fitted out in America against England to leave the ports of the United States, and orders were issued to the custom-house officers to prevent their return. This course of proceeding appears equally consonant to the principles of law and the dictates of policy. The question, then, remains, Was the *Alabama* unlawfully equipped and manned within the jurisdiction of Great Britain? Now, setting aside the vexed question of equipment, I think there can be very little doubt on that of enlistment. The question is one which from its very nature is not and cannot become the subject of judicial determination, because a neutral government cannot exercise jurisdiction over such a vessel. It is a matter on which the executive of the neutral government must, according to the best information it can obtain, form its own judgment, and that judgment is final and conclusive on all parties. Now, I observe that in a despatch dated March 27, 1863, (Parliamentary Paper, p. 2,) Lord Russell writes: "The British government has done everything in its power to execute the law; but I admitted that the cases of the *Alabama* and the *Oreto* were a scandal and in some degree a reproach to our law." Now, with the greatest deference to those persons who may be of an opposite opinion, I submit that vessels of which such a statement can be properly made, and that it was properly made no one acquainted with the circumstances of their outfit and manning can honestly doubt, are not entitled to the hospitality of the country whose laws they have eluded and abused. I think that to deny to the *Florida* and the *Alabama* access to our ports would be the legitimate and dignified manner of expressing our disapproval of the fraud which has been practiced upon our neutrality. If we abstain from taking such a course, I fear we may justly lie under the imputation of having done less to vindicate our good faith than the American government consented at our instance on former occasions to do.

But, assuming this position not to be well founded, and that the *Alabama* was rightly admitted into Saldanha bay, it remains to consider whether the cap-

ture of the Sea Bride can be justified as it affects the neutrality of Great Britain. This, I confess, appears to me somewhat more than doubtful. Supposing the Alabama were to anchor at Spithead for a week to repaint; suppose thence she were to sail along the coast and capture a federal vessel four miles off Deal, and afterwards were to proceed with her prize to the mouth of the Thames: the circumstances would be precisely similar to those which took place last August at the Cape. Is this permissible? I venture to say clearly not. Assume that the capture was actually effected—of which there seems little doubt—beyond the limits of the neutral jurisdiction, still within the principles of well-known English judgment this act of hostility is far too proximate to be permitted. The law on the subject is laid down with great distinctness by Lord Stowell in the case of the *Twee Gebroeders*, (3 Rob. Rep., p. 165.)

"Direct hostility appears not to be necessary, for whatever has immediate connexion with it is forbidden. An act of hostility is not to take its commencement on neutral ground. It is not sufficient to say it is not completed there—you are not to take any measure there that shall lead to immediate violence; you are not to avail yourself of a station on neutral territory, making as it were a *ventage ground* of the neutral country, a country which is to carry itself with perfect equality between both belligerents. Many instances have occurred in which such an irregular use of a neutral country has been warmly resented, and some during the present war; the practice which has been tolerated in the northern states of Europe of permitting French privateers to make stations of their ports, and to sally out to capture British vessels, is of that number."

Vide also the *Anna* (5 Rob., p. 385.) It is true that in the case of the *Vrow Anna Catharina* (5 Rob. Rep., p. 18) a distinction is taken between the "making a harbor an *habitual* station for captures," and the case of a privateer "*accidentally* lying in the port" which goes out to capture an enemy whom she sees approaching. But, as far as I can understand the occurrences at the Cape, they range themselves rather under the former than the latter rule. If this be so, the capture of the Sea Bride comes within the same category as captures made actually within the limits of the neutral jurisdiction, and in such cases it is the duty of the neutral government to effect restitution.

But, again, assuming this not to be so, and the capture is to be regarded as clear from all objection on the score of violation of neutral territory, there still arises another question from the fact that the prize was subsequently brought within the limits of our jurisdiction. Now, this having been done, the consul of the federal government had a clear right, according to the doctrine of the *Santissima Trinidad* and similar cases, to litigate the question of restitution on the ground that the vessel was captured by a cruiser unlawfully equipped within the English dominions. This he was entitled to do, on a claim for restoration brought either at his suit or that of the English government, and upon such a suit the character and origin of the Alabama would have been judicially investigated. It is difficult to understand why this course was not adopted, except that both the English colonial authorities and the American consulate appear, from their reciprocal arguments, to have been imperfectly versed in the legal principles applicable to the occurrence. The American consul seems to have omitted to demand that to which he was justly entitled, while he put forward all sorts of claims which were wholly untenable. On the other hand, the colonial authorities do not appear either to have received very explicit instructions or to have exercised any great caution or sagacity on the occasion.

It remains to notice the case of the *Tuscaloosa*, which arose just about the same time in the same waters, and which, from what I perceive by your paper of this morning has more recently occurred, is likely to become a matter of some interest. This vessel, it appears from the Parliamentary Paper, was originally the federal bark *Conrad* captured by the Alabama; she had some guns put on board her, and was named the *Tuscaloosa*. Whether she was ever lo-

gitimately commissioned as a vessel-of-war does not distinctly appear; and if she was so, the authority and the manner in which the commission was conferred are not stated. However this may be, on the 8th of August, 1863, she entered Simon's bay, where she remained seven days with her original cargo of skins and wool on board, and it is stated that her cargo was sold to merchants at Cape Town. Under these circumstances the American consul demanded her detention by the English colonial authorities on the ground that she was a prize, and that the English government "having excluded prizes from all the ports of the British empire, the captures necessarily revert to their real owners as soon as they enter a British port." It is hardly necessary to say that as a general proposition this is wholly untenable. The rule is, that questions of prize are cognizable only in the courts of the captor; and the mere fact that a prize is brought into our ports, in breach of these orders, does not give to the neutral any jurisdiction over the prize of a legitimate cruiser, whether the prize has or has not been condemned. The only remedy in such a case is to order its instant departure. But to the general rule that questions of prize are cognizable only by the courts of the captors, there are two important exceptions—one, where the prize has been taken in violation of the neutral territory; the other, where the prize has been taken on the high seas by a cruiser equipped within the neutral territory in breach of its laws. In both these cases the neutral government lawfully assumes authority over the prize in vindication of its violated neutrality. Neither the American consul nor the colonial authorities seem to have adverted to this important distinction between the rule and the exceptions. The matter was further complicated by the pretension of the Tuscaloosa to be a commissioned vessel-of-war. The colonial authorities decided that she was entitled to be so regarded, and declined in any way to interfere with the vessel. It appears from a letter of Lord Russell to Mr. Adams, dated October 29, 1863, (Parliamentary paper, p. 43,) that the foreign office was not altogether satisfied with the view taken of the matter by the authorities at the Cape, and it would seem that fresh instructions were issued, under which, in December last, the vessel was seized on her return to the Cape. The grounds of this seizure and the circumstances attending it are not stated with any precision, and the facts of the case are too little known to admit of any one venturing an opinion on the subject. Those who desire to acquaint themselves with the principles of law involved will do well to study the case of the *Nereyda*, (8 Wheat. Rep.,) which appears, as far as the facts are known, to be remarkably similar to that of the *Tuscaloosa*. The profound and masterly arguments at the bar in that case seem to exhaust every aspect of the question, and are a good deal more instructive than the somewhat timid and inconclusive judgment of the court. The question there was whether a prize which assumed to have been duly condemned and to have received a legitimate belligerent commission could, when brought into a neutral port, be seized by a neutral government and restored to her original owners on the ground that she was originally captured by a vessel unlawfully equipped within the territory of the neutral government. It is not very easy to discover from the judgment of the court whether they held the satisfactory proof of a lawful condemnation would have absolutely defeated the neutral jurisdiction; nor is it clear what view they took of the operation of the alleged commission. I confess I am disposed to think that in such a case the question of condemnation is not the most material, and that, whatever may be the case of a *bona fide* purchaser under the sentence of a prize court, at all events as against the original captors the mere sentence of condemnation would not defeat the right or dispense with the duty of the neutral government to effect restitution in such a case. The question of the commission of the *Tuscaloosa* is a much more serious matter. It is certainly a strong thing to attempt to exercise jurisdiction of any kind, upon any pretext, over a commissioned vessel-of-war; and in this respect it must be confessed

that it is not very easy to reconcile the course taken in the case of the *Nereyda* with the doctrine laid down with so much precision in that of the *Exchange*. It is probable, however, that the legitimacy of the commission of the *Tuscaloosa* is not admitted by the English authorities. In that case the matter will resolve itself simply into a suit for the restitution of a prize brought within our jurisdiction, on the allegation that she was captured by a cruiser unlawfully fitted out and manned within our dominions. Such a suit would be strictly in accordance with well-established precedents, and in its discussion the whole question of the origin and character of the *Alabama* and her outfit will be adjudicated upon.

Before quitting these topics I should wish to say one word on the tone and temper in which it becomes us to enter on these discussions. Some people seem to consider that we do ourselves injustice if, when the Americans swagger, we do not bluster in return. I confess that it appears to me that dignity and self-respect prescribe an exactly opposite course. The American government may find some excuse for irritation and ill temper in their ill success and disappointment. We have no pretence for regarding these questions in any other spirit than that of a calm and self-possessed impartiality. I have no fear lest we should be timid enough to do more than is right because we are threatened, and I hope we shall not be petty enough to do less than is right because we are abused. The maxim of chivalry, *noblesse oblige*, applies not less to great nations than to exalted persons. England is too powerful to be afraid, and too great to fear to be thought so. What we have to do is to determine, according to the best of our judgment, the precise limits of right, and to tread with an unswerving step the path of justice and of law, alike heedless of menace and disdainful of reproach. What we have most to fear is lest we should ever find ourselves committed to defend that which is not justly defensible.

HISTORICUS.

TEMPLE, February 16.

Mr. Graham to Mr. Adams.

UNITED STATES CONSULATE,
Cape Town, Cape of Good Hope, January 4, 1864.

SIR: The *Conrad*, *alias* *Tuscaloosa*, arrived in Simon's bay, in this colony, on the 27th of December, 1863, having been on a cruise between this place and Brazil, since she discharged her cargo of wool at Angia Pequena. She reported having seen over one hundred vessels on her cruise, only two of which were American. One of these two outsailed her after a chase of two days; the other, named the *Golden Age*, she captured, and afterwards released upon the master giving a bond to the amount of \$180,000. On the 28th, the next day after the *Tuscaloosa* arrived here, I received the following letter:

"COLONIAL OFFICE, December 28, 1863.

"SIR: I am directed by the governor to acquaint you that the *Tuscaloosa*, having again arrived in Simon's bay, will, under instructions lately received from her Majesty's government, be retained under her Majesty's control and jurisdiction, until properly reclaimed by her original owners.

"I have the honor to be, sir, your most obedient servant,

"RAWSON W. RAWSON,

"Colonial Secretary.

"WALTER GRAHAM, Esq., United States Consul."

To this I briefly replied, that I was content to have the vessel remain in the present custody until I received special instructions from her owners in regard

to her; because, though I could institute a proceeding *in rem* without special authority from them, I could not receive actual restitution of the *res* in controversy without such authority. But I added, that if, at any time hereafter, it should be determined to give the vessel up to any party other than the owners, I desired to be apprized of the fact in due season, to commence a proceeding *in rem* in the vice-admiralty court here. I also said, I hoped his excellency would see that the decision of the British imperial government covered as well the goods belonging to the Sea Bride, which were seized at the custom-house here, and that he would be pleased to announce that they also were held subject to the order of the original owners.

I have not yet received any reply; but as the suit I have brought against the colonial government was to establish a principle which the home government has already conceded in the case of the Tuscaloosa, there is now little necessity for prosecuting the suit, especially as the value of the goods claimed is of small account.

I have the honor to be, sir, your most obedient servant,

WALTER GRAHAM, *Consul*.

Hon. CHARLES FRANCIS ADAMS,

Envoy Extraordinary, &c., &c., &c., London.

P. S.—January 5. Last evening I received the following letter.

W. G.

“COLONIAL OFFICE, *January 4, 1864.*

“SIR: I am directed by the governor to acknowledge the receipt of your letter of the 29th ultimo, and to state that, in compliance with your application, the Tuscaloosa will for the present be retained in charge of officers of her Majesty's government. His excellency is quite prepared to comply with your request respecting the forfeited goods, said to have been part of the cargo of the Sea Bride.

“I have the honor to be, sir, your most obedient servant,

“RAWSON W. RAWSON,

Colonial Secretary.

“The U. S. CONSUL.”

Mr. Adams to Mr. Seward.

No. 600.]

LEGATION OF THE UNITED STATES,

London, February 18, 1864.

SIR: I have the honor to report to you that the British government has very liberally acceded to the application made by Mr. P. McD. Collins, and has granted to him the right to continue his proposed telegraph communication from Russia over the English territorial possessions in Northwestern America. Agreeably to the directions contained in your No. 652, of the 13th of July, 1863, I have done whatever was in my power to facilitate his efforts. Mr. Collins is on his way to America, and will report his success to you in person.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*

Mr. Adams to Mr. Seward.

No. 601.]

LEGATION OF THE UNITED STATES,
London, February 18, 1864.

SIR: I have received from Mr. Dudley, the consul at Liverpool, a copy of a despatch addressed to him by the Assistant Secretary of State, directing him to take the necessary measures to reclaim certain persons charged with crimes committed on board the schooner *J. L. Gerrity*, under the provisions of the extradition treaty of 1842.

Previous to the reception of this information, I had, on the strength of a deposition made by the captain of that vessel, come to the conclusion to apply for a warrant to arrest four of the persons concerned in that enterprise, who were alleged to be in Liverpool.

I have the honor to be, sir, your obedient servant.

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

Mr. Adams to Mr. Seward.

No. 602.]

LEGATION OF THE UNITED STATES,
London, February 19, 1864.

SIR: I have the honor to transmit a copy of my note to Lord Russell of the 12th instant, in reply to his of the 8th, heretofore sent forward with my despatch No. 596. I also append a copy of his note of acknowledgment of the 13th.

The movements of the rebel agents continue quite actively. The steamer with a mysterious destination is still here. You doubtless continue to receive full reports concerning her. The efforts to sustain confidence in the ability to resist are very strong. The Richmond correspondent of the *London Times*, a person by the name of Lawley, arrived here in the *Scotia*, and is laboring to the best of his ability to sustain the hopes of their ultimate success. I have reason to believe that he has had interviews with Lord Palmerston on the one side, and with leading friends of the United States on the other, in which he professes to communicate the results of his observation. Without knowing the object which the rebels have in view in using this man, I am inclined to infer it must be some ultimate project of an offer of mediation. There is no reason for supposing that any such notion will be favorably received by the present government.

The rumors of changes in the military commands again produce unfavorable impressions of the management of the war. Among other things which I hear reported by Mr. Lawley is the hope of the rebel commander that General Meade may be superseded.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD, *Secretary of State, &c., &c., &c.*

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,
London, February 12, 1864.

MY LORD: I have the honor to acknowledge the reception of your note of the 8th instant, in reply to mine of the 19th of last month, in relation to the

abuses made of the neutrality of her Majesty's territories by the insurgents of the United States. I have transmitted a copy of the same for the consideration of my government.

It gives me great satisfaction to learn that her Majesty's government have taken steps to prevent the violation of the neutrality of her territories. Such acts, initiated from the frontiers of her possessions in Canada, are peculiarly dangerous, by reason of the treaty obligations of the two countries to abstain from armaments on the waters that separate them in America. It gives me great regret to be compelled to believe that the projects of carrying on hostile operations from one or more points along those lines have not yet been abandoned, and that considerable numbers of men are actually concentrating in Canada with a view to make an attack on some unprotected spot. Considering the danger of the complications to which even a casual and temporary success might lead, I trust I may be pardoned for recurring once more to the subject. I have never admitted the idea for a moment that, in acknowledging the belligerent character of the insurgents, it was the intention of her Majesty's government to yield to them extraordinary facilities for the abuse of the neutrality adopted by Great Britain. But it is impossible, in the face of the facts, to deny that such has been and is the case. The very position of a belligerent implies responsibility for its action. Yet it is quite apparent that thus far no means have been arrived at by which effectively to impose any restraint upon its most lawless proceedings. In selecting the northern borders of the United States these people well understand the object they have in view, which is not so much to annoy or harass the population living there as to create a state of excitement, which might, in its consequences, involve a misunderstanding between the two nations. Even with the utmost vigilance of the authorities on both sides, it is scarcely to be hoped that every attempt of the kind, if often renewed, could be prevented. It is for this reason that I beg your lordship's pardon if I renew my urgency for the adoption of some measures which may more effectually remove this danger at its very source.

I pray your lordship to accept the assurances of the highest consideration with which I have the honor to be, my lord, your most obedient servant,

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c., &c.

Earl Russell to Mr. Adams.

FOREIGN OFFICE, *February 13, 1864.*

SIR: I have the honor to acknowledge the receipt of your note of yesterday's date respecting certain alleged abuses of neutrality committed within her Majesty's North American possessions; and I have the honor to inform you that I have transmitted a copy of the same to the secretary of state for the colonial department.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Moran to Mr. Seward.

LEGATION OF THE UNITED STATES,

London, February 20, 1864.

SIR: By direction of Mr. Adams, I have the honor to forward herewith, out of the regular course, a copy of The Index, of the 18th instant, a paper in the

interest of the rebels, published in London. At page 107 will be found a narrative of the recent attempt on the part of a number of the insurgents to invade the United States from Canada. To this Mr. Adams requests me to call your special attention.

I have the honor to be, sir, with great respect, your obedient servant,

BENJ. MORAN,

Assistant Secretary of Legation.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

[From The (London) Index, of February 18, 1864.]

THE CANADIAN EXPEDITION.—A gentleman who was engaged in the frustrated attempt to rescue the confederate prisoners confined on Johnson's island, near the Canadian frontier, writes to us to correct some misstatements which have obtained currency through the federal press. He says: "You are aware of the leading facts of this affair, and know that our object was defeated by the authorities of the province. Perhaps you have already learned the secrets of the plan, but if you have not, a few words might be of service. The prisoners who had been released from Johnson's island, the federal prison in Lake Erie, conceived a plan to capture the island and release the large number of officers confined there. The assent of the confederate government was asked, but long refused, from a doubt whether it could be effected without violating the neutrality of British territory. This objection was at last so far overcome that a certain number of officers received leave to attempt the hazardous experiment, but under strict orders to do or permit no act directly or indirectly liable to be construed into such violation, to buy no materials of war and enlist no assistance on British soil, but only to exercise the right of passage as individuals. Accordingly, upon arriving in Canada, arms and cannon were purchased in New York, and were sent by parties there up to the lake, where we could get them. Not an article was obtained in Canada. Even medicines and surgical instruments were furnished from New York, and all correspondence with the prisoners was carried on through the personal column of the New York Herald. Several British officers wished to join, but they, as also the assistance of many Canadian gentlemen, were refused. The basis of our operations was to be on Yankee territory, the means for carrying out our object, viz: to release the prisoners, were to be obtained there alone. This principle was adhered to in perfect good faith, in spirit as well as in letter, though not without some difficulty. Success would have been certain, had not an unexpected obstacle caused delay. The Michigan, a federal gunboat, had anchored off the island, and it then became necessary to capture her before releasing the prisoners. To do this, more men were necessary, and some confederates, who had recently escaped from camps Chase and Douglas, were taken as volunteers. There was no one of the party owing allegiance to Great Britain, or who had 'found an asylum on her soil,' as the papers had it. But when we had completed our preparations, with the aid of friends in the federal States, the very day before it was to have been executed it reached the ears of the governor general, and the Yankees, being immediately warned by him, it became impossible.

"Such is the whole affair in a nutshell. You will see that all we asked of the Canadian authorities was the right of passage to Yankeedom, individually and unarmed, we having neither the means nor the intention to commit a belligerent act before reaching Yankee jurisdiction. You can draw your own inference from the facts. Some of the Canadian and even some of the English papers, I am told, have taken a different, and, as it appears to me, a wholly erroneous view of the matter."

Mr. Seward to Mr. Adams.

No. 850.]

DEPARTMENT OF STATE,

Washington, February 23, 1864.

SIR: The Scotia's mails have arrived so late that I shall not be able to take the President's directions for replies to your interesting despatches.

Military proceedings are satisfactory. The army is already largely renewed. About 200,000 men have been enlisted since the 1st of November, including the re-enlistment of 75,000 out of 80,000 whose first term of service will expire in the coming spring and summer.

The reoccupation of Florida strikes a severe blow at the insurrection, by cutting off its chief source of meat supplies. General Sherman's flank movement from the Mississippi across the country towards Atlanta is thus far eminently successful.

Admiral Farragut is again active in the Gulf. The navy is increasing. The Dictator will soon try her destined element. The process of reconstruction seems to be going on successfully.

The canvass for the Presidential election is opening. That election will probably be the first one held in forty years in which slavery will have been held by all parties as incapable and unworthy of political defence. Of course the occurrence of the canvass at this conjuncture is a subject of some anxiety among thoughtful citizens, who would desire to confine the public mind to the duties of the war, if it were possible. Nevertheless, this anxiety seems to be rather of a speculative character, and, judging from existing indications, the nation has all the constancy and fidelity necessary to secure its passage safely through this new political trial, as it has already surmounted so many others.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 852.]

DEPARTMENT OF STATE,

Washington, February 24, 1864.

SIR: I have the honor to give you herewith a copy of the decision of the vice-admiralty court of Nova Scotia, which directs the delivery of the Chesapeake and her cargo to the owners, upon payment of costs.

By direction of the President I have advised that the owners pay the costs under protest. This government still adheres to the opinion that it was its right, under the circumstances of this case, to have an immediate and unconditional restitution of the Chesapeake and her cargo by executive authority, without waiting for an adjudication; nevertheless, it accepts the restitution so far as it has been ordered, and in the form in which it has been adjudged, and willingly leaves further claim for future consideration, being satisfied that her Majesty's provincial authorities in Nova Scotia have conducted their proceedings, in this matter, in a spirit at once just and friendly towards the United States; and that the judgment rendered reflects honor upon the enlightened magistrate who presides in the vice-admiralty court.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

COURT OF VICE ADMIRALTY,
Halifax, February 15, 1864.

Judgment was this day given by the Hon. Alex. Stewart, C. B., judge of the vice-admiralty court, in the cause, No. 211, of

THE QUEEN *vs.* THE STEAMER CHESAPEAKE AND CARGO.

The Advocate General for the Crown ; J. W. Johnston, J. W. K. Johnston, and Isaac J. Wyld, esquires, advocates and proctors for portions of the cargo ; the Hon. S. L. Shannon, advocate, and William Morse, esq., proctor for the vessel and the remainder of the cargo.

On the 6th January last the advocate general exhibited affidavits of himself, made before the registrar, and copies of three affidavits made before the mayor of this city, by James Johnson, George Ames, and Mary V. Burgoyne, and also the affidavits of William Henry, Alexander Henry, John E. Holt, and Patrick Conners, sworn before the registrar ; copies of all which affidavits are attached to this judgment. Upon these affidavits he moved for a warrant to arrest the steamer Chesapeake and cargo as having been piratically taken on the high seas from her lawful owners, which I granted. It was issued on the same day, made returnable on the 12th, executed on the 7th, and returned and filed in the registry on the 9th of January. On this last day he moved for a commission of unlivery, which I granted ; informing him that he might cause the cargo to be unladen or not, as in his discretion he should think fit.

On the 18th he placed it in the hands of the marshal, who on the 29th returned it executed, with inventory attached to it, unto the registrar.

No appearance on behalf of the captors of the Chesapeake having been filed on the return day of the warrant of arrest, they were, on the petition of the procurator general, in the usual manner pronounced in default.

Claims by British owners for parts of the cargo have been allowed, viz : to Ross & Co., of Quebec, for 109 hogsheads of sugar ; to Belony & Lamotte, for 10 hogsheads of tobacco, and 1 box of tinfoil ; to Charles Sampson, for 1 cask of augers ; and to James McInlay for 5 rolls of sole-leather ; and Her Majesty's advocate general having consented thereto, I decreed writs of restitution.

On the 10th February, Mr. Morse, on behalf of the owners of the vessel, moved for the admission of their claim that the vessel be restored to them, and that the remainder of the cargo, which is unclaimed, and which is owned in part by British subjects and in part by American citizens, should be delivered to them, in order that they might carry the same to the original port of destination, Portland, in the United States, and there deliver it to those who were entitled to receive it. The advocate general has examined this claim, and consented that a writ of restitution thereof be granted without bail to answer prospective, or what are, in this court, designated latent claims, and upon this claim I am now giving judgment ; but it is obvious that thus granting this claim and the restoration prayed for will terminate this case. These claimants are citizens of the United States of America ; the vessel is an American steamer ; and I may mention that, as an additional ground for the delivery of the unclaimed cargo to them, they allege that they have a lien thereon for freights. It is the ordinary practice of this court to direct property taken by pirates to be returned to the owners without delay, and (except where there is a strong necessity for requiring it) without bail for latent claims, taking care to protect the rights of the salvors and the droits of admiralty. At this period it is incumbent on me to state that I adhere to the opinion I expressed on the 9th, and repeated on the 12th of January. I do not at all controvert the legal principles suggested at the bar as worthy of my consideration, but I do not perceive their applicability to the circumstances of the present case ; but whether I be in error or not, whoever or whatever they are who seized the vessel, and whatever in their own or in their

counsel's estimation their rights may be, they have not thought fit to vindicate them before this court. They have, as I have just noticed, suffered judgment by default.

I have been much embarrassed in dealing with this case. To grant this application will be entirely within the rules applicable to it, for, on the facts sworn to, the taking was undoubtedly a piratical taking. But in its origin, in its position before the court, in the mode of the recapture—in short, in all the concomitant circumstances, the case is very peculiar. I was therefore, in the absence of decided cases, obliged to recur to and rely on, for my guidance, those principles which lie at the basis of all law. And I do not think I shall be acting unbecomingly in referring for a few moments to those principles.

The right of self-defence is one of the fundamental attributes of an independent State, and the principles which regulate its conduct towards other States have their foundation in a higher philosophy than that which underlies the municipal or positive law. The latter implies a ruler to prescribe and a subject to obey. An independent state recognizes no superior, acknowledges no authority paramount to its own. Underneath international law lies the *ultima ratio regum*. Every independent state determines for itself, as exigencies arise, what shall be the penalty for infractions of the law which it prescribes. The sovereign whose territorial rights are violated by the subjects or citizens of a friendly state is not bound to appeal for reparation to (what might be) the tardy justice to be conceded by that state. If those subjects or citizens are within its territory, it will inflict on them its own penalty, in its own mode. An independent state is not circumscribed by the limits which are essential to the administration of municipal law, since by it the agents of the community protect from the aggression of the wrong-doer the individuals of which it is composed. Then if one of the Queen's subjects had violated the municipal law as flagrantly as the captors of the Chesapeake have outraged the international law, and such violation would have (as it unquestionably would) justly subjected the offending vessel to forfeiture, shall those who have violated the higher law be subjected to a less penalty? Assuredly not.

Then as to the right disposal of the forfeited vessel. It were derogatory to the royal dignity to add the proceeds of property which had belonged to the citizens of a friendly nation to the privy purse of the Queen, and it would as little become the honor of the British nation to make profit out of their misfortune.

What more appropriate mode of dealing with this vessel and cargo than to restore them to their original owners?—not as a favor to them, but as an act of justice to the offended dignity of the crown; not as recognizing any right of the government of the United States to require such restoration, but as a fit punishment of the offenders, and a warning to others. The law which the Queen and Parliament have prescribed to enforce the observance of her neutrality is to be found in her Majesty's proclamation, and in the statute under the authority of which it was issued. Is the offence which I have suggested against the municipal law? or can any offence be more serious than that by which the British nation might be drawn into the sad contest which has desolated and is still desolating one of the fairest portions of the earth?

By the affidavits on which I granted the warrant, it is certain that the Chesapeake, if a prize at all, is an *uncondemned prize*. For a belligerent to bring an uncondemned prize into a neutral port, to avoid recapture, is an offence so grave against the neutral state, that it *ipso facto* subjects that prize to forfeiture. For a neutral state to afford such protection would be an act justly offensive to the other belligerent state.

The Chesapeake was brought, not into one port only, but into several of the ports of this province; not openly, but covertly; not in her proper name, but in a false name. Still further, they who thus invaded the Queen's territory sur-

reptitiously landed and sold therein a considerable portion of her cargo, making no distinction between those parts of it which were owned by the subjects of her Majesty and those belonging to the citizens of the United States; and instead of vindicating the rights which it was asserted for them at the bar they possessed, they (after landing on the shores of this province, and thus being under the protection of British law) have long since fled from and are still fugitives from it.

These are the facts on which I deemed it right to recommend at once that the vessel should not be unladen or removed from the custody of the provincial government, in order that she might be restored intact to her owners. I then thought—I still think, that it would not consist with the dignity of her Majesty, though the capture had been a lawful one, to hold valid a plea on behalf of these persons. The facts I have just mentioned must have been admitted, for they are in their nature incontrovertible.

This court has no prize jurisdiction, no authority to adjudicate between the United States and the Confederate States, or the citizens of either of those States. Yet, if a claim to the vessel and cargo could have been sustained, all further jurisdiction on my part over them must have ceased, and they must have been further disposed of by competent authority, and it would have in that case been my duty to have examined into the question of prize. As the case at present stands, I am rightfully exercising jurisdiction, for the facts disclosed by the affidavits as to the actual taking of the vessel from the master and crew beyond all doubt constitute a piratical taking. The effect of upholding the plea of these captors might possibly be, that, notwithstanding their gross misconduct, the vessel and cargo might be left to them. For, as his honor the administrator of the provincial government had directed the vessel and cargo to be brought into this court for adjudication, he could hardly then have resumed possession for any purpose. Impressed, then, by these strong convictions, as such a condition is dispensed with by the advocate general, I will not myself volunteer to impose (as a condition precedent to the restoration of the property) that their owners shall give bail to answer prospective claims; for, if I am rightfully informed, the amount to be required would be at the least eighty thousand dollars, and to insist on such bail might be equivalent to a refusal to restore the property.

Unloading the vessels, and the incident expenses, have rendered their rateable adjustment a matter of great difficulty; a difficulty, to be sure, which might be overcome by my decreeing a particular appraisement and valuation of the vessel and cargo to be made by the marshal, and a subsequent reference to the registrar and merchants. After a careful consideration, however, of this part of the case, I think it not unjust to order that the costs and expenses (except only the costs of these claimants whose property is to be delivered to them here, which, as well as those of the advocate general appertaining thereto, they are to pay) be paid by the owners of the vessel, leaving to them to adjust and seek repayment thereof from the shippers, insurers, and other persons chargeable therewith. If this were an ordinary case of recapture from pirates, the prescribed salvage would have been one-eighth of the value of the property, and this, on the value of the vessel alone, (which, I am informed, is more than sixty thousand dollars,) would have been seven thousand dollars, and the owners of both vessel and cargo have been fortunate that they were not destroyed at sea, and so wholly lost to them. It is unnecessary to recur to the circumstances of the recapture. It suffices to remark that the taking was not an ordinary piratical capture. It is even possible not to have been a case of piracy at all. This court would stultify itself were it to effect ignorance of what is patent to everybody, namely, that those who wrested the Chesapeake from the master and crew are at the present moment in the adjoining province of New Brunswick asserting that they made the capture as citizens of and parties duly authorized by the government of the Confederate States, and that they have produced

documents and proofs thereof before magistrates there, duly invested with the right to determine the validity of their claim, so far at least as affects their alleged piratical character. I allow this claim, and will decree a writ of restitution when moved, to be given to the claimants upon payment of the costs and expenses, as I have before specified.

The registrar will estimate as accurately as he can the amount which will certainly cover the whole costs and expenses to be paid, as I have directed, by the vessel, and upon that amount being paid into the Bank of British North America, the bank of deposits of this court, he will issue the writ of restitution to the owners of the vessel. And he will, by orders on the said bank, pay to the several parties entitled to receive the same such sums as he may have taxed and allowed, and the remainder, if any, he shall return to the said owners. In like manner he is to tax and allow and cause to be paid by the claimants of that part of the cargo which has been, is, or is to be delivered here, all their costs and the costs of the advocate general appertaining to their claims. The registrar will cause this judgment to be inserted in one of the city newspapers, and he will also cause to be printed, in the same manner as the affidavits in this cause are printed, this judgment, and also my remarks thereon of the 13th of January and 10th instant, and attach copies thereof to this judgment, and also copies of the said affidavits. And the registrar will include in his bill the charge for the printing done and to be performed in this cause against the vessel, and pay the same to Alpin Grant, esq., the printer of this court, out of the sum to be deposited, as aforesaid, in the Bank of British North America.

Mr. Seward to Mr. Adams.

No. 853.]

DEPARTMENT OF STATE,

Washington, February 24, 1864.

SIR: I have the honor to acknowledge the receipt of your despatch of February 5, No. 593, which is accompanied by a copy of the Queen's speech, and the debate thereon, at the opening of Parliament.

The situation of the ministry, in face of the new European complications, is manifestly an embarrassing one; but it is not clearly seen how it could have been avoided, without incurring a risk of falling into more troublesome complications. If it be true, as you inform me, that evil disposed persons are preparing to renew the agitation for a recognition of the insurgents in the United States, the motive for the proceeding must be local and mercenary, or factious with reference to England herself; for I think there is abundant evidence that despondency pervades the domestic councils of the insurgents. No doubt of the failure of the insurrection exists here. If the British ministry should cordially accept this result before it becomes a historical fact, it would lay the foundations of permanent friendship between the two countries, and would thus, as we think, indemnify itself for all the losses it has sustained in the fields of local and merely European politics.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 854.]

DEPARTMENT OF STATE,
Washington, February 25, 1864.

SIR: Your despatch of February 4 (No. 591) has been received. Later advices inform us that the appeal in the Alexandra case has been dismissed by the court of exchequer chamber. I am awaiting with some concern Mr. Evart's report upon the subject, and the ultimate probable results.

The blockade amounts practically to a closing of all the insurgent ports, except Wilmington, and the contraband trade there is now so exceedingly abridged that it seems unaccountable to us that Great Britain should not be ready to suppress it altogether, and accept in lieu the restoration of a free and prosperous commerce under the treaties and laws of the United States.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 855.]

DEPARTMENT OF STATE,
Washington, February 25, 1864.

SIR: I have before me your despatch of February 4, (No. 590,) which speaks of the actual breaking out of hostilities between Germany and Denmark, and of the perplexities which that act produces in the British councils.

More recent information shows that Austria and Prussia have achieved a successful campaign, and are in possession virtually of all Schleswig. It remains to be seen whether a foundation can now be laid for a peace that will be satisfactory to the greater states, who charge themselves with the preservation of the balance of power in Europe. Without pretending to the knowledge necessary for the formation of a reliable judgment, I may, perhaps, be safe in believing that the present condition of things in the theatre of the war is very unsatisfactory to Great Britain.

I observe statements in the continental papers that emigrants have returned from this country with large promises to engage in the attractive conflicts of Europe. If this be so, and if these conflicts continue, this government will be summoned to new duties in maintaining neutrality. Our responsibilities in this way are already large enough. The war of France against Mexico wears upon the patience of the American people. Spain is watchful lest the insurgents of San Domingo receive aid from the United States; and their insurgents are here seeking recognition, at least as belligerents. If our own unhappy civil war should come to an end, in the midst of a European war, it would be difficult to enforce upon citizens of the United States the performance of international obligations that Europe has refused to observe in regard to ourselves.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq.

Mr. Adams to Mr. Seward.

No. 603.]

LEGATION OF THE UNITED STATES,
London, February 25, 1864.

SIR: I have to acknowledge the reception of despatches from the department, numbered from 826 to 840, both inclusive.

I have executed the instructions contained in Nos. 827 and 836.

I have obtained a promise of an interview with Lord Russell this afternoon, for the purpose of bringing to his attention the subjects embraced in No. 830, No. 835, No. 837, and No. 839. I shall endeavor to make a report to you thereon to-morrow.

I addressed a brief note to Lord Russell on transmitting to him a copy of The Index, of the 18th instant, containing the same article sent to you last week. A copy is herewith transmitted, and also his reply.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,

London, February 22, 1864.

MY LORD: I beg permission to submit to your consideration a copy of a journal called The Index, published in the interest and under the direction of the emissaries of the insurgents in London. On page 107 of this number there appears what purports to be a letter from a person who was engaged in the enterprise started in Canada to invade a portion of the territory of the United States. It would seem, from the admissions made by this individual, that the effort to make Canada the basis of an attack had been fully sanctioned by the so-called authorities at Richmond, under the pretence of exercising the right of passage through the territory. It is almost needless to point out to your lordship the fraudulent character of these operations, a feature so generally perceptible in the proceedings of these same parties in foreign countries.

I pray your lordship to accept the assurances of the highest consideration with which I have the honor to be, my lord, your most obedient servant,

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c., &c.

THE CASE OF THE PAMPERO.—On Tuesday, in the court of exchequer, Edinburgh, Lord Ormidale pronounced an interlocutor on the Pampero, the vessel which was seized on the Clyde on the information to the effect that it was intended to be fitted out and employed in the service of the Confederate States of America. The defenders pleaded that the information was bad in law, and called upon Lord Ormidale to decide, before sending the case to a jury for trial, as to the relevancy of the various counts in the information. Lord Ormidale, in his interlocutor, appoints the case to be tried by a jury on Tuesday, the 5th of April, and in a note appended to the interlocutor says: "It appears to the lord ordinary that it is unnecessary and inexpedient in this case to dispose of any questions of law and relevancy before trial, and accordingly he has followed the course which was adopted in the similar case of the Alexandra in England. So far as the lord ordinary can judge at present, the defenders will not be precluded, merely by the case being appointed to be tried, from afterwards availing themselves from any plea in law and relevancy which is in itself well founded, but as the lord ordinary cannot prejudice any matter whatever, so he can give no assurance on the subject. The lord ordinary is not to be understood as holding that cases may not occur where it would be proper, as well as competent, to dispose of cases of law and relevancy before trial, although it must always be desirable to avoid, where

it can be done with a due regard to the interest of the parties and the ends of justice, a double course of litigation with the attendance of expense and delay. In regard to the expediency in the present case in not disposing of the questions of law and relevancy which have been raised by the defenders there can be little doubt. According to the defenders' own showing, the information is not wholly irrelevant; and even as regards those parts of it to which the defenders' objections, as stated to the lord ordinary, apply, at least some of them may be affected by the evidence at the trial. The defenders' arguments on relevancy may possibly also be superseded by the course which the case may take at the trial. Till, then, the whole facts and circumstances of the case have been fully disclosed at the trial, it would be unsafe, if not impossible, to decide how far the information is or is not maintainable under the statute on which it is laid."

Earl Russell to Mr. Adams.

FOREIGN OFFICE, *February 24, 1864.*

SIR: I have the honor to acknowledge the receipt of your note of the 22d instant, enclosing a copy of the Index newspaper, containing an article relative to the late attempts to release the confederate prisoners of war, confined at Johnson's island; and I have the honor to inform you that I have forwarded a copy of your note to the colonial office.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c. &c., &c.

Mr. Adams to Mr. Seward.

No. 604]

LEGATION OF THE UNITED STATES,

London, February 25, 1864.

SIR: I have the honor to transmit a copy of the Times, of yesterday, containing the report of a long and able debate in the House of Commons, on Tuesday evening, upon a call for papers on the subject of the iron-clads, and the action of the government in regard to them. The opposition appear to have gathered courage of late, and to incline to skirmish with the government on its foreign policy. It does not appear that they are prepared with any definite measures. The struggle looks more like a trial of strength in view of future operations. On this issue the division is not strictly a party one. The majority is greater than the strength of the ministry could command.

* * * * *

During the week there have been wild rumors set afloat of the Emperor Napoleon's intention to recognize the confederates. I trace them only to a very indifferent source. The effect was to raise the cotton loan higher for a day or two, but it has since fallen back again.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, &c., &c., &c.

VESSELS EL TOUSSON AND EL MONASSIA.

Motion made, and question put: "That an humble address be presented to her Majesty, praying that she will be graciously pleased to give directions that there be laid before this house copies of all correspondence between the various departments of her Majesty's government, or officers in her Majesty's service, and Messrs. Laird Brothers, relating to the two iron-clad vessels the El Tousson and El Monassia, building by that firm, and seized by order of her Majesty's government; and of any papers or correspondence that have passed between her Majesty's government and the government of the United States, or their representative, Mr. Adams, relating to the said vessel:"—(Mr. Seymour Fitzgerald.) The house divided—ayes, 153; noes, 178.

AYES—Adderley, C. B.; Addington, W. W.; Baillie, H. J.; Barttelot, Col.; Bathurst, A. A.; Beach, W. W.; Bective, Earl of; Beecroft, G. S.; Benyon, R.; Bernard, Colonel; Bernard, T. T.; Blake, J.; Bovill, W.; Bramley-Moore, J.; Bramston, T. W.; Bridges, Sir B. W.; Bruce, Major C.; Bruce, Sir H. H.; Brughley, Lord; Cairns, Sir H. McC.; Cartwright, Col.; Cecil, Lord R.; Chapman, J.; Clifton, Sir R.; Close, M. C.; Cobbold, J. C.; Cole, H.; Collins, T.; Cubitt, G.; Curzon, Visct.; Dawson, R. P.; Dickson, Col.; Disraeli, B.; Drax, J. S.; Du Cane, C.; Dunne, Col.; Du Pre, C. G.; Edwards, Col.; Egerton, A. F.; Egerton, E. C.; Fane, Col.; Farquhar, Sir M.; Fellowes, E.; Ferrand, W.; Fleming, T. W.; Forester, Gen.; Fraser, Sir W.; Galway, Visct.; Gard, R. S.; George, J.; Gilpin, Colonel; Gore, J. R.; Graham, Lord W.; Greaves, E.; Greenall, G.; Gray de Wilton, Visct.; Grogan, Sir E.; Haliburton, T. C.; Hamilton, Lord C.; Hardy, G.; Harvey, R. B.; Hansard, M.; Hay, Sir J. C.; Heathcote, Sir W.; Henniker, Lord; Hill, R. C.; Hodgson, R.; Hopwood, J. T.; Humphrey, W. H.; Hunt, G. W.; Ingestre, Visct.; Jervis, Capt.; Jolliffe, H. H.; Kekewich, S. T.; Knatchbull, W. F.; Knox, Col.; Lacon, Sir E.; Laird, J.; Langton, W. G.; Leader, N. P.; Leeke, Sir H.; Lennox, Lord G.; Lennox, Lord H.; Lindsay, W. S.; Longfield, R.; Lovaine, Lord; Lyall, G.; Lygon, F.; Macaulay, K.; Macdonogh, F.; MacEvoy, E.; Malcolm, J. W.; Malins, R.; Manners, Lord J.; Maxwell, Colonel; Mitford, W. T.; Montagu, Lord R.; Montgomery, Sir G.; Morrill, W. J.; Mowbray, J. R.; Mure, D.; Naas, Lord; Noel, G. J.; North, Col.; Northcote, Sir S. H.; Packe, C. W.; Packington, Sir J.; Parker, Major; Peel, Gen.; Pevensey, Visct.; Powell, F. S.; Repton, G. W.; Ridley, Sir M. W.; Roebuck, J. A.; Rogers, J. J.; Rolt, J.; Rowley, R. T.; Selater-Booth, G.; Selwyn, C. J.; Smith, Abel; Smith, S. G.; Smollett, P. B.; Somes, J.; Stanhope, J. B.; Stanhope, Lord; Stanley, Lord; Stewart, Sir M. R.; Stuart, Lt. Col. W.; Stracey, Sir H.; Sturt, Lt. Col.; Sullivan, M.; Talbot, W. C.; Taylor, Colonel; Thynne, Lord E.; Thynne, Lord H.; Tollemache, J.; Tottenham, Lt. Colonel; Trefusis, C. H.; Turner, C.; Vance, J.; Verner, E. W.; Vyse, Col.; Walcott, Admiral; Walker, J. R.; Walpole, S. H.; Walsh, Sir J.; Watlington, J. W.; Welby, W. E.; Wyndham, H.; Wyndham, P.; Wynn, C. W.; Yorke, E. T.; Yorke, J. R. *Tellers*—Horsfall, T. B.; Fitzgerald, S.

NOES—Angerstein, W.; Annesley, Colonel; Antrobus, E.; Aytoun, R. S.; Bagwell, J.; Baines, E.; Baring, H. B.; Baring, Sir F. T.; Baring, T.; Baring, T. G.; Barnes, T.; Bass, M. T.; Baxter, W. E.; Bazley, T.; Beale, S.; Beaumont, W. B.; Beaumont, S. A.; Bellew, R. M.; Berkeley, C. P.; Black, A.; Blencowe, J. G.; Bonham-Carter, J.; Bouverie, E. P.; Bruce, H. A.; Buchanan, W.; Buller, Sir A. W.; Bury, Visct.; Butt, I.; Buxton, C.; Caird, J.; Calthorpe, F. H.; Cardwell, E.; Carnegie, C.; Castlcrosse, Visct.; Clay, J.; Clifford, C. C.; Cobbett, J. M.; Colebrooke, Sir T. E.; Collier, Sir R. P.; Colthurst, Sir G. C.; Cox, W.; Craufurd, E. H.; Crawford, R. W.; Crossley, Sir F.; Dalglish, R.; Davie, Col.; Denman, G.; Dillwyn, L. L.; Dodson, J. G.; Duff, M. E.; Duff, R. W.; Duke, Sir J.; Dundas, F.; Dundas, Sir D.; Dunlop, A. M.; Enfield, Visct.; Evans, T.

W.; Ewart, W.; Finch, C. W.; Foley, H. W.; Forster, C.; Forster, W. E.; Foster, W. O.; Fortescue, F. D.; Fortescue, C. S.; Gavin, Major; Gibson, T. M.; Gilpin, C.; Gladstone, W.; Glyn, G. G.; Goldsmid, Sir F. H.; Goschen, G. J.; Gower, G. W.; Greene, J.; Gregson, S.; Grenfell, H. R.; Grey, Sir G.; Grosvenor, Earl; Hadfield, G.; Handley, J.; Hardcastle, J. A.; Hartington, Marquis; Harvey, R. B.; Henderson, J.; Henley, Lord; Herbert, H. A.; Hibbert, J. T.; Hodgkinson, G.; Hodgson, K. D.; Howard, C. W.; Hutt, W.; Ingham, R.; Jackson, W.; Johnstone, Sir J.; Kershaw, J.; King, P. J.; Kinglake, A. W.; Kinnaird, A. F.; Knatchbull-Hugeson, E.; Layard, A. H.; Langton, W. H.; Lanigan, J.; Lawson, W.; Leatham, E. A.; Lefevre, G. J.; Lee, W.; Levinge, Sir R.; Lloyd, T.; Locke, J.; Lowe, R.; Mackie, J.; Mackinnon, W. A.; Marjoribanks, D. C.; Marshall, W.; Martin, J.; Matheson, A.; Merry, J.; Mildmay, H. F.; Mills, J. R.; Moncreiff, J.; Morris, D.; Morrison, W.; Neate, C.; North, F.; O'Brien, Sir P.; O'Hagan, T.; Paget, C.; Paget, Lord A.; Paget, Lord C.; Palmer, Sir R.; Paxton, Sir J.; Pease, H.; Peel, Sir R.; Peel, F.; Peel, J.; Peto, Sir S. M.; Pilkington, J.; Pinney, Col.; Pollard-Urquhart, W.; Ponsonby, A.; Potter, E.; Powell, J. J.; Pritchard, J.; Proby, Lord; Ricardo, O.; Robartes, T. J.; Russell, H.; Russell, A.; Salomons, Alderman; Scholefield, W.; Seely, C.; Seymour, H. D.; Seymour, A.; Shelley, Sir J. V.; Sheridan, R. B.; Smith, J. B.; Smith, M. T.; Smith, A.; Smith, J. A.; Stacpoole, W.; Stansfield, J. Tollemache, F. J.; Tracy, C. R.; Turner, J. A.; Tynte, Col. K.; Vane, Lord H.; Verney, Sir H.; Vernon, H. F.; Villiers, C. P.; Warner, E.; Watkins, Col. L.; Western, S.; Westhead, J. P.; Whitbread, S.; White, J.; White, L.; Wood, Sir C.; Wyld, J. *Tellers*—Brand, H. B.; Dunbar, Sir W.

For.

PAIRS.

Against.

Colonel Packe,
Mr. B. Osborne,
Lord J. Browne,
Lord Dunkellin,
Mr. Finlay,
Mr. Hankey,
Sir C. O'Loghlen,
Mr. H. Robertson,
Mr. Childers,
Sir E. Dering,
Mr. Ellice,
Baron M. de Rothschild,
Mr. Hanbury,
Sir H. R. Davie,
Sir M. Cholmeley,
Sir J. Ogilvie,
Mr. W. Buller,
Mr. Beamish,
Mr. Brocklehurst,
Sir A. Agnew,
Mr. Waguellin,
Colonel Biddulph,
Mr. Steele,
Mr. Shafto,
Colonel Sykes,
Mr. Glyn,
Mr. Tite,
Mr. Harvey Lewis,
Mr. Adair,

Sir Percy Burrell.
Mr. Hennessy.
Sir W. Jolliffe.
Colonel Leslie.
Mr. R. Long.
Mr. Peacocke.
Captain W. Gray.
Mr. Vansittart.
Mr. W. Nicoll.
Lord Holmesdale.
Mr. Damer.
Mr. Farrer.
Mr. Paull.
Mr. Hubbard.
Mr. B. Woodd.
Mr. Alderman Rose.
Mr. Cave.
Sir C. Mordaunt.
Mr. Whiteside.
Major Knox.
Mr. Franklyn.
Mr. Cargill.
Mr. Hamilton.
Hon. Colonel Lowther.
Captain Archdall.
Mr. O'Neill.
Mr. Torrens.
Colonel Bathurst.
Mr. Brooks.

Mr. H. Berkeley,
Sir W. Scott,
Mr. Massey,
Sir W. Hayter,

Mr. G. Bentinck.
Mr. B. Johnstone.
Colonel Pennant.
Mr. Whitmore.

The only English "Liberals," it will be seen, who voted against the government in the above important division, were Messrs. Lindsay, Roebuck, and Sir R. Clifton. These were joined by four Irish "Liberals," viz., Messrs. J. Blake, M. Hassard, E. MacEvoy, and M. Sullivan. Among those who voted with the government were five Conservatives, viz., Colonel Annesley, E. Antrobus, T. Baring, C. W. Finch, and R. B. Harvey. Mr. Disraeli went into the lobby with Mr. Seymour Fitzgerald, as also did Lord Stanley. Mr. Bentinck, who now sits below the gangway on the Conservative side, instead of above the gangway, as on previous sessions, and Mr. Newdegate, were absent.

SEIZURE OF THE STEAM RAMS.

Mr. S. Fitzgerald then rose, pursuant to notice, to move for copies of correspondence on this subject. He said that he was not insensible of the delicacy of the task which he had undertaken. A few days ago, in addressing the House with respect to the conduct pursued by American cruisers towards our merchant ships, he expressed a desire that nothing might fall from him calculated in the slightest degree to aggravate the feeling of irritation which unhappily existed between the two countries. In the same spirit he wished that night to confine himself strictly to that portion of these transactions which implicated and concerned the conduct of her Majesty's government. He would scrupulously avoid as far as possible alluding to the despatch which, they all knew, was addressed by the United States government to its minister in this country, but which that minister, with that wise discretion and good sense which had distinguished him from his first arrival among us, had thought it better to withhold. He would only, in passing, observe that, looking to the arrogant and almost insulting tone of that despatch, if the writer had desired to find out some means which would make the adoption of the policy he desired to enforce impossible, he would have exactly taken the course which he did, and have drawn up a letter of that kind [hear, hear,] which every class in this country felt did little credit to American diplomacy. He was aware that the honorable and learned attorney general would, possibly, meet this motion with the objection that it had reference to matters still the subject of judicial investigation. [Hear, hear.] There was, no doubt, great force in that objection, but not in a case like the present. It might be highly inconvenient, if they were now to discuss the question whether these vessels were rightly or wrongly seized under the foreign enlistment act; but as that was not the object of his motion, and as he desired to obtain papers which would show whether, before that seizure took place, the conduct of the government was consistent with the law or not, he hoped the House would not refuse to entertain his proposition. It appeared from the papers published by the American government, for the use of both houses of Congress, that Mr. Adams, having learnt that certain vessels of very formidable character were building at Birkenhead, in the yard of Messrs. Laird Brothers, addressed himself to Lord Russell on the 11th of July last, accompanying his letter with depositions which, he thought, seemed to prove that these vessels were intended for the service of the Confederate States. Mr. Adams, at the same time, urged the case on the notice of Lord Russell in terms most forcible, because he described the building of these rams as being regarded by the government and the people of the

United States as tantamount to a participation in the war by the people of Great Britain, to a degree which, if not seasonably prevented, could not fail to endanger the peace of both countries. [Hear, hear.] That communication from Mr. Adams was followed up by others on the 16th and 25th of July, and on the 14th of August; and on each of those occasions Mr. Adams presented to Lord Russell additional depositions, calculated, in his opinion, to prove that it was the duty as well as the interest of her Majesty's government at once to stop the progress of these steam rams. Those depositions were at once forwarded by Lord Russell "to the proper quarter"—meaning, of course, that they were submitted to the law officers of the crown; and during the whole interval from the 11th of July down to the 1st of September, the circumstances brought under Lord Russell's notice by the American minister were receiving the careful consideration both of the law officers and the responsible advisers of the crown. The next question was, what was the result of the investigation thus entered into by the government, assisted by their law officers? That result was communicated by Lord Russell to Mr. Adams in a despatch of some length. On the 1st of September, Lord Russell, after saying that the papers forwarded by Mr. Adams had been submitted to the law officers, wrote that her Majesty's government were advised that the information contained in the depositions was, in a great measure, hearsay evidence, and generally was not such as would show the intent or purpose necessary to make the fitting out of the vessels illegal under the foreign enlistment act. After referring to the statement that they were built for a French merchant in Paris, and that there was no evidence to affect him with any illegal act or purpose, the noble lord went on to say that the responsible agent of the customs at Liverpool affirmed his belief that the vessels were not built for the Confederate States; and then he concluded by saying that, "Under these circumstances, and having regard to the entire insufficiency of the depositions to prove any infraction of the law, her Majesty's government are advised that they cannot in any way interfere with these vessels." It was, therefore, perfectly clear that up to that time Lord Russell had the fullest information given him by Mr. Adams, and that the decision of the government and their law officers was that they could not, with any respect for the law, interfere with these steam rams. Well, the house would scarcely be prepared to hear that on the 4th of September, only three days afterwards, the under secretary for foreign affairs wrote, under the direction of Lord Russell, to the lords of the treasury, to request that these rams should be detained. What had passed in the mean time? Had any new information reached Lord Russell? Again referring to the book, which furnished very full information on all that had passed to the United States Congress—information which he could have wished to see as fully possessed by the British House of Commons [hear, hear]—he found that the only thing which had happened in the meanwhile was, that Mr. Adams had again addressed Lord Russell. Of that communication, on his part, Mr. Adams gave this description. In a despatch addressed to Mr. Seward, and dated the 3d of September, 1863, Mr. Adams wrote:

"As the case seemed doubtful, I concluded that the wisest course would be to put in one more remonstrance. Accordingly I have taken advantage of some depositions of no great additional weight, furnished to me by Mr. Dudley and others."

Therefore, on the face of it, it appeared that, having the fullest information, the law officers of the crown decided that there was no legal ground for interfering; but that afterwards, on Mr. Adams forwarding some more depositions which he himself deemed "of no great additional weight," Lord Russell immediately proceeded to detain the steam rams. Now, the question would immediately arise whether there was anything besides this additional evidence presented to Lord Russell which caused this change of view. [Hear.] He would proceed, presently, to point out what was the opinion of the American government;

but the first question he wished to ask the honorable gentleman was this: How came it that, not having any evidence whatever, sufficient to justify them in seizing the rams, her Majesty's government proceeded to detain them; under what act of Parliament was it done; by what authority; and how was it that, having waited the whole month of September without seizing the rams, and without putting the case into any shape for legal investigation, they yet detained the rams in the manner complained of? [Hear.] Because, what was the first announcement which was made to Messrs. Laird, as to the stopping of the steam rams? It was in a letter signed G. A. Hamilton, and dated September 9, 1863, announcing that "the vessels will not be permitted to leave the Mersey until satisfactory evidence can be given of their destination, or, at least, until the inquiries which are now being prosecuted, to obtain such evidence, shall be brought to a conclusion." ["Hear, hear," from Mr. Layard.] The honorable gentleman would have an opportunity, presently, of giving an answer which would convey something more definite to the house than that cheer. [Hear, hear.] Was it a principle of English law, in the enforcement of a highly penal statute, not to proceed according to the requirements of the statute, not to put those implicated on their trial, not to bring the whole circumstances of the case under investigation, but to say, "We, by the authority of the crown, by the act of the executive, shall take care that your vessels shall not leave the Mersey until you have proved to us that you are engaged in an innocent transaction, or until some roaming commission that we have sent about the world shall have returned, and reported that they have no evidence to give upon the subject. [Hear, hear.] What was the whole course of the proceedings of the government from the 1st of September until the vessels were finally seized? Although he had learnt from what had been said by the noble lord (Lord Russell) in another place, that on the 3d of September he directed the vessels to be seized, there must be some error in the date. Because, if the noble lord directed the honorable gentleman to write to have the vessels stopped that day, he would have done so without giving the slightest notice to Messrs. Laird that this interference was impending, and he would have allowed a friendly note to be written to Messrs. Laird, asking them to furnish her Majesty's government with information, with as little delay as possible, on whose account these vessels were being built. [Hear, hear.] For a letter was written to Messrs. Laird in these terms: "Lord Russell is led to understand that, while you are not in a position to volunteer information, you would furnish it upon official application." ["Hear, hear," from Mr. Layard.] It was all very well for the honorable gentleman to cheer, but the question was, was not that letter written at the very moment the government were directing a prosecution, and yet they did not tell the Messrs. Laird that the information which they were ready to give might be used against them in an information which was being then prepared. [Hear, hear.]

But that was not all. Messrs. Laird having replied that the vessels were being built at the order of M. Bravay, of Paris, for the Pasha of Egypt, what did the government do? They said they were going to institute a prosecution, because they were convinced the rams were for the confederate government; and yet within a week they applied to M. Bravay to buy the rams. Nor was that a solitary application. Long after the government said the vessels must be detained until they should receive satisfactory evidence of their destination, the government, through their chief constructor of the navy, proposed to buy those rams from Messrs. Laird. Upon being asked for his authority by Messrs. Laird, Mr. Reed produced an authority from the admiralty to negotiate the purchase of the rams. [Hear, hear.] Thus the very government which tried to purchase the rams on the ground that those who were represented to be the real owners were the owners, during the whole month of September and up to the 27th of October, never turned one moment from the position they had taken that they would detain the rams until satisfactory evidence of their destination

was given them. [Hear, hear.] There was one remarkable letter of Lord Russell, dated the 11th of September, which conclusively proved that Lord Russell persisted in his intention of detaining the rams long after he was convinced that the story told by M. Bravay, that he had ordered them for the Pasha of Egypt, was true. Lord Russell, in writing to Mr. Adams, said it was important to show that the iron-clads were not intended for the Pasha of Egypt; but it was only on the 10th instant that her majesty's government had received a despatch from Mr. Colquhoun, her Majesty's consul general in Alexandria, stating that orders for two iron-clads were given when said Pasha was in Paris, but M. Bravay urged in vain on Ismail Pasha to carry out the contract; that from this example and that of the vessels built for the Emperor of China, whose name was alleged all over the United States to be a mere sham, it would be seen how necessary it was to be cautious about rumors affecting the character of vessels. [Hear.] From that letter it was perfectly evident that Mr. Colquhoun's despatch was conclusive either that M. Bravay was the owner, or that the story of M. Bravay was not true. But how could it prove the latter when the only contradiction of the story was that Ismail Pasha refused to carry out the contract into which his predecessor had entered. He would appeal to the house, looking at the case of the vessels ordered by M. Bravay and that of the vessels put under the command of Mr. Sherard Osborn, and ordered for the Emperor of China, was it not evident from his letter of the 11th of September that Lord Russell did believe that the story of M. Bravay was true, or at least that the Messrs. Laird had built the vessels upon a distinct understanding with that gentleman? [Hear, hear.] How came it, then, if the government had a just suspicion that the foreign enlistment act was being violated, but not sufficient evidence, or, in fact, any evidence whatever to justify them in seizing the rams, they yet proceeded to detain them? The next question was, What led to the change of opinion in Lord Russell? That was best answered by a despatch of Mr. Adams himself. That was a despatch addressed by Mr. Adams to Mr. Seward, and dated September 8, 1863, in which he said that he enclosed a copy of Earl Russell's note of the 4th instant, in which the noble earl stated that he had received Mr. Adams's note of the 3d, and that the subject would be reconsidered. Here was the secret of the whole matter. The despatch of the 3d of September, though couched in the most temperate language, yet pointed distinctly to the result that those rams leaving the Mersey and inflicting injury upon American commerce would infallibly lead to a war between the two countries. ["Hear," from Mr. Dunlop.] He should like to know why the honorable gentleman cheered when the statement he made was that the government, having no legal authority, and having themselves stated that they had no legal authority to detain these rams, yet under the pressure of a menace held out to them that war would ensue if they did not take a certain course, at once proceeded to its adoption. [Hear, hear.] Was that the statement which was cheered by the honorable member for Greenock—that the government, in spite of the law, had seized on the property of British subjects, because if they did not do so the consequences might be serious. [Cheers.] For his own part, he could say with truth that no man deprecated more than he the occurrence of hostilities between England and the United States. A war between the two countries would be most calamitous and unnatural, and he trusted he should never see the day when it would break out. He hoped, at the same time, it would never seriously be contended that an English government, in order to avoid such a war, might transgress the law and seize the property of British subjects without any justification. [Hear, hear.] He, for one, would not approve such conduct, and would rather accept any consequences than pursue such a line of policy. [Hear, hear.] Now, what he asked of the house was, that they should give him the paper for which he moved, so that they, as well as the country, might be in a position to know whether the government had done its duty, or

whether the government had overstrained the law, and if so, upon what grounds it adopted that course. The honorable gentleman, he was informed, would decline to give the papers, because they had reference to a matter which was still under judicial investigation; but with respect to that objection he had simply to say that the ground which he took in making his motion related not to matters which were the subject of judicial investigation, but to the legality of the steps taken by the government in connexion with the detention of the rams. It was, he thought, expedient in the interests of justice that the papers should be produced. There was nothing for which the people of this country were more remarkable than their respect for the law, and there was only one quality of which they ought to be still prouder, and that was, that with all their respect for the law, they entertained the greatest jealousy of the power of the executive ever being so strained as to overstep the law so as to do injury to the interests or endanger the privileges or the rights of even the meanest of her Majesty's subjects. [Hear, hear.] But then he was met again by the argument—the question is under judicial investigation. But what, he would ask, looking at the case of the *Alexandra*, did judicial investigation mean in this country? It meant an inquiry that might last for years. [Hear, hear.] What had occurred even in the present instance? The rams were seized in October, and it was not until February that the slightest public step was taken to bring the case to trial; and taking everything into account, the end of the year would in all probability have arrived before it was submitted to judicial investigation. That being so, was the House of Commons to be told that in a matter so important they must wait for information because some of the circumstances connected with it were under judicial investigation? Such a reply could scarcely, he thought, be regarded as satisfactory. He had limited, in order that there might be the less difficulty in giving the information, his motion to two particular subjects, one being the correspondence which passed between her Majesty's government and the Messrs. Laird with regard to those vessels; and why on earth the government should decline to produce that part of the correspondence he could not understand. All the letters of the government on the subject were in the hands of the Messrs. Laird, while they had copies of all their own letters to the government, and all they need do was to send them to newspapers, in order that they might be published to the world to-morrow. Now, what he desired was simply that the House of Commons should have an authoritative version of that correspondence, while to the production of the other correspondence for which he asked he did not see that there could be any valid objection. The principal letters comprised in that correspondence had been published in every newspaper in the United States, and had been quoted in our own; and that being so, he hoped the house would have no hesitation in enforcing their production, so that we might be able to judge whether the government had or had not acted in a manner entitling them to public confidence. [Hear, hear.] The honorable gentleman concluded by moving for copies of all correspondence between the various departments of her Majesty's government, or officers in her Majesty's service, and Messrs. Laird Brothers, relating to the two iron-clad vessels the *El Tousson* and *El Monassia*, building by that firm, and seized by order of her Majesty's government; and of any papers or correspondence that have passed between her Majesty's government and the government of the United States, or their representative, Mr. Adams, relating to the said vessels.

THE ATTORNEY GENERAL. My honorable friend does not hesitate to admit that he is sensible of the existence of some force in the objection to his present motion, founded on the fact that this case is the subject of judicial investigation, but seems to think that he will be able to evade that difficulty by limiting the scope of the inquiry to the conduct of her Majesty's government antecedent to the seizure of these vessels. He is of opinion that the papers for which he asks having been produced, the house will be in possession of all the informa-

tion which is necessary in order to enable them to form a judgment as to whether the government have or have not in this matter done their duty. Now, by the very limitation which my honorable friend has made in the terms of his motion, he himself clearly admits that he knows, and that the house must be well aware, that to ask for all the papers in the hands of the government—which would place honorable members as well as the country in a position to understand the grounds of the action which the government have taken—would be directly to interfere with the administration of justice in this case, and to make the House of Commons instrumental in facilitating the objects in their litigation against the government of private claimants, who doubtless would find it very convenient, by means of such a motion as this, to get behind the scenes and possess themselves of all the information in the hands of the government, so as to enable them to defeat its case, if possible, however just it might be. Why, such a thing was never heard of as that, while a case was waiting for trial, the government or any other litigant party should be called upon to produce all the materials in their possession from which a sound judgment could be formed in justification of the course they have adopted. My honorable friend says his object is to obtain the production of papers which would enable the house to know whether the government has done its duty, at the same time that he is well aware he does not move for those papers, without which no fair decision can be arrived at on the subject. He wishes, in short, for the production of fragmentary and garbled extracts, consisting in part of documents which have passed between the government and Mr. Adams, which, though I think there will be no advantage in laying them on the table, yet I am ready to produce, although they will not put the house in a position to form a correct judgment on the merits of the case. But my honorable friend also wants to have the correspondence which passed between the government and Messrs. Laird, the charterers of these vessels, and who are now in part claimants of them; and he asks for that correspondence without the other documents showing the grounds on which the government acted, notwithstanding the professions of openness and candor made by others in that correspondence. The production of those letters alone would be tantamount to laying on the table of the house, by the authority of the government, that which is not the case of the government, and would really not enable the house to understand why the government were not satisfied with those professions, and why the government, conducting for a long time and with caution an important inquiry, found in the end that it was their duty to take the step they did of seizing the vessels on their own responsibility, being prepared hereafter to justify that course at the proper time and proper place. [Hear.] My hon. friend calls upon us to do the very thing he said he would not do—namely, to rehearse our case to the house; and, in the absence of materials, he at the same time tries to persuade the house that Lord Russell and the government acted on grounds not warranted by law and under the influence of representations almost of a menacing tone made by Mr. Adams.

The house will excuse me if I follow my hon. friend into the statement he has made. First of all, to take up the commencement of the matter, on the 11th of July Mr. Adams sent to Lord Russell a letter representing the affair to be of grave importance, and urging the government to fulfil their professions of neutrality and execute the law by preventing the departure of the vessels in question. I ask the house whether any person could blame Mr. Adams, or the representative of any foreign nation, for urging a matter of that description in the most pressing and serious manner on the attention of the government. [Hear, hear.] In this case the matter was pressingly urged by the minister of the foreign country most interested in it, if his belief turned out to be correct; and are we, because his expressions may in certain instances overstep that moderation which might be desirable, to deviate one inch from doing our own duty, or in any way abstain from redeeming our own professions of honest neutrality? [Hear, hear.] What

would have been said if the United States, to whom we applied to enforce their own foreign enlistment act during the war with Russia, had turned round and said that they would not enforce it because it was Great Britain that asked it to be done? Should we have thought such a course consistent with the dignity of that country, and with its professions of neutrality? Undoubtedly it is the right of a foreign state, injured by proceedings of that description, to represent the injury, and to call on a friendly power to enforce the laws and observe the obligations of neutrality; and it is, I venture to say, the duty of that power, not overstepping the limits of its own laws, but acting fully, firmly, boldly and courageously up to the extent of those limits, to attend to the representation made to it, and to put its laws in force. [Hear, hear.] What was this case? Here are ships of that formidable character which, even according to the view taken in the court of exchequer, in the recent case of the *Alexandra*, by one, at all events, of the judges not in favor of the crown, are, if intended for the confederate government, contrary to our enlistment act, being capable of doing the most extensive mischief the moment they passed beyond the limits of our waters, to the United States, if directed against the commerce of that country. The character of the ships was patent and known, and the only question was, whether they were intended, as Mr. Adams believes, for the confederate government. What was the course taken by her Majesty's government? They required such evidence as would justify them in acting, as would produce a conviction of the truth of the facts alleged, and as they could produce in a court of justice. The depositions forwarded to the government, though containing some matter capable of being produced in a court of justice, contained more that was not capable of being so produced; and, on the whole, it did not appear to the government proper to treat the vessels as liable to confiscation. That decision was announced to Mr. Adams on the 1st of September. It is said, however, that Mr. Adams, on the 3d of September, repeated his instances and that on the 4th an order was given to detain these vessels, or to prevent them from leaving the port of Liverpool. That order, however, was not the result of a decision adopted by the government after the receipt of Mr. Adams's letter of the 3d of September, but of a decision arrived at previously. The honorable gentleman asks whether any new information reached Lord Russell in the mean time. That is just the one thing we do not mean to tell the honorable gentleman, [hear, hear] but he may be sure that the government have grounds for what they do. [Hear, hear.] They were themselves during the whole period actively prosecuting inquiries, and information reached the government which determined the measures they took at every stage and every step. [Hear.] The honorable gentleman asks what right the government had to detain the ships. I say boldly, and in the face of the country, that the government, on their own responsibility, detained them. They were prosecuting inquiries which, though imperfect, left on the mind of the government strong reasons for believing that the result might prove to be that these ships were intended for an illegal purpose, and that if they left the country the law would be violated, and a great injury done to a friendly power. The government did not seize the ships, but, on their own responsibility, took care that the law should not be evaded until the whole inquiry would be brought to a conclusion, and the government would know whether the inquiry would result in affording grounds for seizing the ships or not. If any other great crime or mischief were in progress, could it be doubted that the government would be justified in taking steps to prevent the evasion from justice of the person whose conduct was under investigation, until the completion of the inquiry? In a criminal case, we know that it is an ordinary course to go before a magistrate, and some information is taken of a most imperfect character to justify the accused's committal to prison for trial, the prisoner being remanded from time to time. That course cannot be adopted in cases of seizures of vessels

of this description. The law gives no means for that [opposition cheers;] and therefore it is that the government, on their own responsibility, must act and have acted in determining that what had taken place with regard to the Alabama should not take place with respect to these ships [cheers]—that they should not slip out of the Mersey and join the navy of the belligerent power, contrary to our law, if that were the intention, until the inquiry in progress should be so far brought to a conclusion as to enable the government to judge whether the ships were intended for innocent purposes or not. [Hear, hear.] There is all the distinction in the world between detaining the vessels on the responsibility of the government, and seizing them; for the latter the government never would do, unless on such evidence as would justify the seizure. In point of fact, this detention has been neither more nor less than an announcement to the builders that the ships were under the surveillance of the government, and that if any attempt were made to withdraw them suddenly from the river, the government, on their own responsibility, would take measures to prevent it. Practically this made, during the time, no difference, because the ships were incomplete, and the moment had never been reached when, according to the statement of the builder, they were actually stopped or detained before the seizure took place. On the 9th of September Mr. Layard wrote to Mr. Hamilton, of the Treasury, that the ships were not to be allowed to leave the Mersey until either satisfactory evidence of their destination was obtained, or the inquiries which had been commenced were brought to a termination. Of course, if any satisfactory information could be afforded showing that they had an innocent and lawful destination, that was all which the government could by possibility aim at or desire. But if no information of that kind could be given, the government were determined that the inquiries which they were making should be brought to a legitimate conclusion, that it might be seen whether those inquiries resulted in evidence or not of the vessels being intended for the confederates, and that in the mean time they would not permit the ends of justice to be baffled by the sudden removal of the ships from the river. [Hear, hear.] Messrs. Laird had early intimation of this determination. About the same time the note which they had heard quoted was written to Messrs. Laird, making inquiry who was the owner or the person representing himself to be the owner. I must ask the house to read an earlier part of that note, because it will then appear to have been written upon the dictation of Messrs. Laird themselves. They had given the custom-house agent to understand, that, although they would not volunteer information, yet, if the inquiry were made, they were quite prepared to answer it. Nothing was more desired by the government than to receive satisfactory information which by possibility might show the destination of the ships to be lawful, and might put an end to the whole question. Accordingly they wrote that they had been informed Messrs. Laird had the information ready to give, and that the information would be acceptable. Then Messrs. Laird mention the name of the French gentleman who has been referred to—M. Bravay—and state that he is the owner of the ships. The next objection is that during this period the government were willing to have been purchasers of the vessels from M. Bravay or Messrs. Laird. This is during the period when they had not evidence on which they would have been justified in seizing the ships. It is during that period that inquiries are in progress, and while those inquiries are incomplete. I venture to say that a course more liberal could not well have been taken than this. [Cheers.] The government did not wish to enforce the forfeiture of valuable property against individuals. If it be true, they said, that a private French gentleman is speculating in ships of this description—if he is a dealer in large steam rams—it must be presumed that, as he is not a belligerent, he must wish to sell them to some one or another. [Hear, hear.] Either on the ground that Messrs. Laird or M. Bravay might be under some delusion as to what the law of England permitted, or, strange as it

might seem, that it was a real *bona fide* speculation in steam rams of war by a private French gentleman having no intention to send them to the Confederate States, they would be quite ready, and it might be an easy solution of the matter, to sell them to the British government. They were not obliged to sell them to the government, but what harm there could be in offering to prove their good faith, and at the same time avoiding loss and finding a customer, I am unable to see. [Hear, hear.] The next passage of the correspondence to which my honorable friend referred was Lord Russell's letter to Mr. Adams of the 11th of September, 1863. Here it must be stated that the government, as I read the letter, had been perfectly satisfied that there was no truth in the representation that the ships were meant for the Egyptian government, because inquiries had been made which did indeed show that there had been a talk by M. Bravay on the subject, but the government of Egypt entirely repudiated the existence of any contract whatever for the purchase of such vessels, and said they had nothing to do with these vessels. An Egyptian destination having been alleged, so far as it appears they had not even an Egyptian destination. The next thing which happened was to seize them, and it is said the government made a sudden announcement to that effect to Mr. Adams. I, of course, abstain strictly from informing my hon. friend of those facts which the government had ascertained, which satisfied them that illegality had been committed, and that there was good ground for forfeiture; but it will be a satisfaction to the house to have some good ground for believing and knowing that, as a matter of fact, they were not Egyptian vessels which the government seized, and that they were intended for that service which was supposed when they were seized. [Hear, hear.] My hon. friend has read from papers which have been laid before the Congress of the United States. Other papers have also been laid before another congress, and in the report of the secretary of the confederate navy to his own congress I find this passage contained :

"In accordance with the order of the president, early in the present year I despatched several agents to England and France, with orders to contract for eight iron-clad vessels suitable for ocean service, and calculated to resist the ordinary armament of the wooden vessels of the enemy. These ships were to be provided with rams, and designed expressly to break the blockade of such of their ports as were not blockaded by the iron-clad monitors of the enemy. Five of these vessels were contracted for in England and three in France. Due precautions were taken against contravening the laws of England in the construction and equipment of these vessels. [Hear, hear.] Three have been completed; but owing to the unfriendly construction of her neutrality laws, the government of England stationed several war vessels at the mouth of the Mersey and prevented their departure from England. [Hear, hear.] Subsequently they were seized by the British government." [Cheers.] We shall have to discuss with M. Bravay and Messrs. Laird this seizure, and it can be more conveniently done in another place than it can be done here; but as between this country and the confederate government, we have information from headquarters of a character perfectly unquestionable, and we know, therefore, as a matter of fact, that these ships were being built in violation of our laws, [cheers,] and for the purpose of being used in the belligerent service of the Confederate States. When I say "in violation of our laws," it is not, of course, for the purpose of entering into any legal argument; but I invite any one who wishes to inform himself to read the judgment of Baron Bramwell, which was adverse to the government in the case of the *Alexandra*, and then I would ask whether it is perfectly clear that, applied to ships of this character and description, it would not be an infraction of our foreign enlistment act. [Hear, hear.] The house, I hope, will believe that the government have not merely stumbled on the prevention of gross and most dangerous infraction of our laws; that we have not done what we have only by accident; but that we had some informa-

tion that our inquiries did lead to a result which, in the judgment of her Majesty's responsible advisers, not only authorized them, but made it their absolute duty to seize these vessels. [Hear, hear.] As to Mr. Adams's despatch to Mr. Seward, stating that the matter had been reconsidered, owing to the effect of Mr. Adams's note of the 3d instant, Mr. Adams may credit himself with his note having such influence, but I believe that the effect of the note of the 3d was the same as the previous notes which had not led her Majesty's government to determine to take action against these vessels until the course of their own inquiries led them to believe there was evidence of their destination. Undoubtedly the note of Mr. Adams was entitled to attention as the representations of a friendly government; but nothing is further from the fact than the supposition that her Majesty's government having no other grounds for the action which they took, except the suggestions of Mr. Adams in that note, took it only under the influence of the considerations presented to them by him. [Hear, hear.] Her Majesty's government took the step of detaining the vessels during the continuance of their own inquiries, because those inquiries at that time had reached a point which led them to believe they would lead to actual and positive information, making clear, one way or another, that those ships were or were not intended for the Confederate States. If they were not, there would be a satisfactory end of the entire matter. If they were, it was our duty to prevent any evasion of any of the laws of the country. [Hear, hear.] With regard to the present state of the case, I frankly confess that I regret having to speak of it as pending and awaiting decision. I confess that it would be satisfactory if the case were further advanced. All I can say is that the law officers of the crown are most anxious it should be proceeded with with due despatch. On the other hand, they are not to blame that those whose duty it is to prepare for trial have to take pains to proceed to trial under circumstances most favorable to the country and to the government. It was impossible to prepare for trial after the last term, and no trial can now take place until May next, but then the case will be quite ready, and it will turn out, as I believe, that no time has actually been lost. I have stated now all that it is the necessary duty of the government to state upon this subject. It is impossible that the case of the government can now be brought before the house; but the government have acted under a serious sense of their duty to themselves, to her Majesty, to our allies in the United States, and to every other nation with whom her Majesty is in friendship and alliance, and with whom questions of this kind are liable ever to arise. Under a sense of that duty they have felt that this is not a question to be treated lightly, or as one of no great importance. If an evasion of the state of the law was really about to take place, it was the duty of the government to use all possible means to ascertain the truth, and to prevent the escape of vessels of this kind to be used against a friendly power. It was their duty to make inquiries, and to act if there was good ground for seizure, taking care only to adopt that procedure which was justified by the circumstances. On the other hand, the government will act, as they always have acted, upon the principle that no seizure of this kind ought to be made, except upon evidence satisfactory to their minds of an actual violation of the law. Upon such evidence we have acted in this case. [Hear, hear.] The only question which really arises is this: Were the government justified, or were they not justified, in taking upon themselves to say that, pending inquiries which might result in attaining, and which, in their judgment did attain such satisfactory evidence, they would not permit the ships to be removed until that inquiry was complete, and until they had the means of knowing whether evidence which would prove the guilt or innocence of these vessels was likely to be forthcoming? [Hear, hear.] The house will judge whether or not the government did exceed their duty, but they would certainly have been grossly wanting in their duty if, after the experience they had had in the case of the Ala-

bama, and while their inquiries were pending, they had not been willing to take on themselves the responsibility of saying that they would not permit justice to be evaded until they could judge whether the ships ought to be seized or not; [hear, hear;] and if they had not relied on the fair and candid judgment of the country, knowing, as the country must know, that they had been actuated by no other motive but that of vindicating the law, and of doing to other countries that which they expect other countries to do to them [Cheers.]

Mr. HORSFALL thanked the honorable member for Hورشام for the very clear and able manner in which he had brought this matter before the house. [Hear, hear.] The attorney general said that the government had no wish to oppress the commercial interests of the country; but on what ground was it, then, that they had refused to Messrs. Laird the permission to complete these vessels while they were in their possession, which would have been a great addition to their value, and would have enabled the Messrs. Laird to receive the last instalment. That course of conduct certainly was oppressing the commercial interests of the country. [Hear, hear.] The Alexandria ought to have been the last case to which the attorney general should have referred, seeing that a jury of British gentlemen had given a verdict against the crown, and the judges had refused the appeal. The honorable and learned gentleman, in an admirable speech which he had made some time ago, had stated that it was the duty of the government not to enforce English law against English subjects on mere suspicion or without satisfactory evidence. Where was the satisfactory evidence against these rams? [Hear, hear.] The government would give no information on that point, but some information had been laid before the American Congress. From the papers published by the American government it appeared that one of the principal evidences against these rams was a person named Chapman, who, as the attorney general would perhaps recollect, had been very properly designated at the late trial as a spy. [Hear, hear.] Another witness in this case was a Mr. Clarence Randal Young, who had to give a most extraordinary account of himself in cross-examination at the trial of the Alexandria. It appeared that he had deserted his wife and child at Savannah; that he went to Kingston and married a mulatto woman with some money, and that, having sold all her property, he deserted her in Liverpool and came up to London to be a witness in that case. Certainly the government could not be congratulated on the witnesses they brought forward. [Hear, hear.] In the same case a Mr. Wilson, a very respectable man, was called on to speak of the character of the ship, but it turned out that he had never built a ship for twenty years. It would be curious to know something of the evidence brought before the noble earl at the head of the foreign office. On the 31st of August the under secretary for foreign affairs wrote to the honorable member for Birkenhead, (Mr. Laird,) in reference to the Alabama, in these terms:

"In a note which Lord Russell has lately received from Mr. Adams, the Alabama is described as a vessel 'fitted out and despatched from the port of Liverpool,' and his lordship directs me to say that he will feel much obliged to you if you could inform him how far it is true that the Alabama was fitted out as a vessel-of-war at Liverpool before she left that port."

Mr. Laird's reply was as follows:

"In reply to your letter of the 31st of August, stating that Lord Russell would feel much obliged to me if I can inform him 'how far it is true that the Alabama was fitted out as a vessel-of-war at Liverpool before she left that port,' I request that you will inform his lordship that I am not able, from my own personal observation or knowledge, to reply to his lordship's inquiry, as I did not see the Alabama after the first week in July, 1862, being some weeks before she sailed. In order to obtain for his lordship from a reliable source the information he has asked for, I have made inquiries from my successors in business, the firm of Laird Brothers, the builders of the vessel now called the Alabama,

and I am authorized by them to state that the vessel referred to was delivered by them at the port of Liverpool, and that at the time of her delivery she was not fitted out as a vessel-of-war."

That letter appeared to have been transmitted to Mr. Adams by the noble earl, and he was sorry to say that he could not join in the eulogium which had been passed on the American minister. Writing to Lord Russell, Mr. Adams said:

"I cannot but regret that your lordship should have adduced the evidence of Mr. Laird in support of any proposition made to my government. I trust that I may be pardoned if I remind you that the statements made heretofore by that person in Parliament respecting their action are not such as are likely to lead to their implicit credence in any relating to his own."

Such language from Mr. Adams was insulting to the honorable member for Birkenhead, insulting to Lord Russell, and insulting to the House of Commons. [Hear, hear.] He had known the honorable member for nearly forty years, and he defied any man to cast a slur on his character. [Hear, hear.] Lord Russell had allowed this language to pass entirely unnoticed, and he could not help thinking that such conduct on his part was undignified and unbecoming a British minister. [Hear, hear.] In a letter to Mr. Adams, Lord Russell pointed out that the government were advised that the information contained in the depositions was, in a great measure, hearsay, and that it was not such as to show the intent necessary to make the building and fitting out of these vessels illegal. Now, there was not one word in the foreign enlistment act about "building," and why should Lord Russell introduce the word? If these vessels were not to be built, surely that was an oppression on the mercantile interests of the country. It ought to be the policy of this country to encourage the building of these vessels in every possible way, and no doubt that was the intention of those who passed the act. If the nations of the world were allowed to come here to get their vessels-of-war built, and to have their munitions of war manufactured, they would not be at the trouble of getting ship-building yards and manufactures of ammunition of their own. Therefore, if we went to war, we could shut out our adversary from the means of procuring arms and munitions of war. It would, in his opinion, be a most fatal policy on our part to declare that no ships-of-war should be built in this country for other nations. [Hear, hear.] It was very easy for the government, with large funds at their disposal, to crush the commercial interests of the country, but the public eye was keenly watching the government in the course they were now pursuing. He held that the whole proceedings in the case of the *Alexandra*, and in the case with regard to the *Messrs. Laird*, constituted an act of the utmost injustice, and a most profligate expenditure of the public money. [Hear, hear.]

Lord ROBERT CECIL wished to say a word or two, as he saw no intention of rising on the part of any honorable gentleman opposite. Indeed, they generally left the lion's share of the debate to those on his own side of the house. [Hear, hear.] In the refusal of information and the absence of discussion lay, perhaps, their great, if not their only means of safety. [A laugh, and "hear, hear."] He would not travel over the same ground as his honorable friend behind him, who had treated so ably of the law and the facts. He would confine himself to the constitutional aspects of the question. The subject before them was really the legitimate jurisdiction of the House of Commons. On his side members claimed the right to inquire into the whole of the proceedings which the government had taken. The attorney general, on behalf of the government, refused to acknowledge that right, and drew a very narrow circle, within which they were to exercise the privilege of inquiring into the conduct of the government. The honorable and learned gentleman said that as long as any matter was the subject of judicial inquiry, or as long as any point germane thereto was in that position, the house must not inquire into it. It was high time for the

house to consider to what that principle amounted. It was obvious, as his honorable friend had said, that the government, if it chose, without a vestige of proof to support its case, without an atom of law to justify its action, could ruin any man against whom, for any reason, whether of political apprehension or of private grudge, it desired to point the artillery of the law. [Hear, hear.] The government paid no costs, and law was costly. If it were defeated in one court it could carry the case to another; if it were again defeated, it could turn off the question on a point of form, and thus it could so prolong and multiply proceedings that the resources of no citizen in the realm could bear up against the pressure. No similar power was known to the constitution. The government could not deprive a man of his liberty or of a sixpence of his money unless it could adduce adequate proof and valid law. Yet it could fine a man to the amount of his whole fortune, under the pressure of legal proceedings, at the end of which it would have neither law nor evidence to justify its action. [Hear, hear.] No costs, however, could be awarded against it. [The solicitor general: "That is a mistake."] Well, costs had not generally been granted against the government; and, even if they were, it was well known they would cover but a slight portion of the expenses incurred by the defendant. [Hear, hear.] Now, there was no check on the exercise of this power, so vast and tyrannical, save one, and that was to be found in this house. [Hear, hear.] It was only by the action of the House of Commons that this power of ruining a subject by process of law could be brought within any bounds. Such being the state of the case, the attorney general told them they had no right to inquire into any matter which was the subject of judicial investigation. He granted that on ordinary occasions it would be exceedingly inconvenient in them to do so. Usually matters must be left to the slow operations of the law. But, surely, when the government was putting a man under the screw, and squeezing out of him all his fortune by legal proceedings, trenching on his rights, and, in spite of adverse decisions against itself, carrying the matter from court to court, the House of Commons had a right to satisfy itself that the government was acting from legitimate motives, and that no secret and unworthy object had led it to take a course so detrimental to the interests of the country. [Hear, hear.] He was bound to say that in the present case there were grave grounds of suspicion. The first thing that struck one was that the rams were seized six months ago, yet only the first legal proceedings had been taken, and that with an intimation that a very lengthy commission was to issue. The peculiarity of the action of the government was, that it took advantage of every possible legal machinery in order to put off to the most remote date the final trial. That might be accidental, but it might be intentional. The honorable and learned gentleman spoke of the language of Mr. Adams as only slightly passing the bounds of moderation. Perhaps he might admit that Mr. Adams's own language warranted that description; but Mr. Adams was the representative of a foreign government, and that government had used language to which the designation of the honorable and learned gentleman was scarcely applicable. What of Mr. Seward's despatch of the 11th of July? There had been a good deal of talk about that document in the house, and a good deal of difficulty in arriving at the real facts of the case. [A laugh, and "hear, hear."] From the statements which had reached them from another place, he thought he was justified in coming to the conclusion that, although no official communication was made by Mr. Adams to Earl Russell of the contents of that despatch, yet the noble lord knew perfectly well what they were. [Mr. Layard: "No."] He would not discuss the matter with the honorable gentleman, for he would, no doubt, call it special pleading. [A laugh.] Any honorable member who would take the trouble to consult the more trustworthy representations which were made in another place, and which were not vouchsafed to the House of Commons, would, probably, arrive at the conclusion he had just expressed. [Hear, hear.] Mr. Seward's language was as follows:

"Can it be an occasion for either surprise or complaint that if this condition of things is to remain and receive the deliberate sanction of the British government the navy of the United States will receive instructions to pursue these enemies into the ports which thus, in violation of the law of nations and the obligations of neutrality, become harbors for the pirates? The President very distinctly perceives the risks and hazards which a naval conflict thus maintained will bring to the commerce and even to the peace of the two countries. But he is obliged to consider that in the case supposed the destruction of our commerce will probably amount to a naval war waged by a portion, at least, of the British nation against the government and people of the United States—a war tolerated, although not declared or avowed, by the British government. If, through the necessary employment of all our means of national defence, such a partial war shall become a general one between the two nations, the President thinks that the responsibility for that painful result will not fall upon the United States."

That was a distinct threat of war. The language in the despatch read by his honorable friend, the member for Horsham, was also a distinct threat of war. In arguing the case of the *Alexandra* the attorney general intimated to the court, in language not to be misunderstood, that the result of a decision adverse to himself might possibly be war.

The ATTORNEY GENERAL. I never alluded to anything of the kind. I argued on general principles alone. [Hear, hear.]

Lord R. CECIL accepted, of course, the honorable and learned gentleman's explanation of the construction he himself put on his words, but it was very evident, from the remarks of the presiding judge, that such an impression as he had adverted to had been created in the mind of the court. [Hear, hear.] What he wanted to impress on the house was, that throughout these proceedings there had been a threat of war on the part of the United States. The government had failed to obtain from the courts of law and from British juries that application of the law which it desired, and consequently the only course that was open to it, under these circumstances, was to procure the utmost possible delay in carrying on legal proceedings. [Hear, hear.] They were threatened by the United States; they knew they were unable to obtain a decision in their favor in the courts of law; after the threats which had been made by the United States they did not dare to come to the House of Commons for an alteration of the law. What were they to do? The only course open to them was to lengthen out the proceedings to the greatest possible extent, to detain these ships by the mere prolongation of proceedings, until, perchance, the complications on the other side of the Atlantic might cease, and so to obtain by an indirect and illegal method that which they could not achieve either by coming to the House of Commons for a change of the law, or by a straightforward and fair application of the instrument which existing statutes placed in their hands. [Hear, hear.] But this was not the most important part of the speech of the honorable and learned gentleman. We had now had a distinct avowal that the government had broken the law. [Hear, hear.] The honorable and learned gentleman had acknowledged that upon their own responsibility, without any authority from the law, they had ventured to stop vessels which had a legal right to leave the country. [Cheers.] Now, it seemed to him that it would be an evil day in our history when it was recorded that the government, under threats of war from a foreign power, without any authority from the law to do so, had broken through every right which the subject possessed, had set at defiance every security of the law, had seized his property in violation of the law, and that then Parliament had taken no notice whatever of such an illegality. [Cheers.] What possible inference could be drawn from the silence of the House of Commons in these circumstances? Was there any other period of our history at which such an act would have been permitted? Was there any

other period at which it would have been endured that the government should violate the rights of the subject in deference to a foreign power, and yet that Parliament should take no notice of the matter? [Cheers.] Nor must it be supposed that this was a solitary case. Last summer there was a case of precisely the same kind, to which he thought it his duty to direct the attention of the house at the time. A vessel called the Gibraltar was freighted at Liverpool with a cargo of guns for Callao. The government sent down an order that she should be detained. They did not attempt to seize her; they detained her, as the honorable and learned gentleman had expressed it, upon their own responsibility for three weeks; no application that could be made would induce them to let her go; and it was not until the matter was mentioned in the House of Commons, and pressed upon the honorable and learned gentleman, that leave was sent down from the treasury to allow her to depart. For three weeks she was detained; the contract under which she sailed was so far broken; but yet no justification of the illegality had ever been offered—no compensation given to the unfortunate individual who suffered. [Hear, hear.] There was a curious circumstance connected with the case of the Gibraltar, which he thought would show the spirit in which the government had acted in reference to vessels of this kind. Among the parliamentary papers would be found a letter from the freighter of the Gibraltar, in which he said:

“We are informed by the collector of her Majesty’s customs for this port that if we permit you to ship the two large fort guns on board the steamship Gibraltar, that vessel will not be allowed to clear, thus preventing us performing our charter-party with you. This action on the part of her Majesty’s government is based upon the suspicion that ultimately your fort guns may find their way into the southern confederacy; the collector, in reply to our question, having informed us that, if the fort guns were for the federal or northern government, no obstacles would be placed in the way of their being shipped, stating, at the same time, that such shipments to New York were of common occurrence.” [Cheers.] That was the statement of an officer of the government. [Hear, hear.]

THE ATTORNEY GENERAL. No; that letter is not from an officer of the government.

LORD R. CECIL. Certainly not; but the writer gave the statement as one made to him by an officer of the government, and his representation to that effect, though printed and circulated among the parliamentary papers, had never been contradicted by the collector of customs at Liverpool. [Cheers.] It was all very well for the attorney general sitting there to contradict it; his honor was safe, because if it should afterwards turn out that the collector did make the statement, it might be said that the honorable and learned gentleman had no communication with him; but, he repeated, no contradiction, either by or on behalf of the collector, had ever been given to that formal declaration of the intentions of her Majesty’s government. [Cheers.] It seemed to him that the case of the Gibraltar threw a flood of light upon the motives of the government in detaining the steam rams and the principles on which they acted. [Hear, hear.] They claimed a right to detain vessels—not in one case, but in many—without any authority from law, upon their own responsibility, because they believed that possibly at some future time they might find evidence that some statute had been broken. [Hear, hear.] They claimed that right, and in acting upon it they explained that they did so for the benefit of one side, in a contest as to which they professed to maintain a position of absolute neutrality. [Cheers.] With such evidence before them—it being perfectly clear that their anomalous and illegal power of detaining vessels, not of seizing them, was acted upon in the interest of the federal government, and therefore might be supposed to be acted upon under the threats of war which that government was in the constant habit of addressing to ours—he thought the House of Commons would

deserve those reproaches which had recently been cast upon them if they tamely passed over such a case as this. [Hear, hear.] They had been accused of being the "most docile" House of Commons that ever existed, of "sneaking to their places," of allowing ministers to do what they pleased. [Hear, hear.] They should really merit that charge, and should not easily be able to wipe it off, if they quietly received the threats of a foreign power, if under those threats they applied the processes of law with merciless severity, if they used all the delay and procrastination of the law for the purpose of crushing the subject, if they allowed her Majesty's government to break the law, and if they suffered them at the same time to avow that they did it on behalf of those who had addressed to them threats of war. [Cheers.] He trusted the house would hear a more satisfactory defence of the conduct of her Majesty's government than had yet been delivered [hear, hear;] but if no such defence was offered, he thought the house would not be doing its duty unless it recorded formally in its journals a protest against this assumption of a new dispensing power, [cheers,] a new power of suspending the rights of the subject, [cheers,] a new establishment of despotic claims, which might, perhaps, be in place in the atmosphere of St. Petersburg or of Washington, but which were entirely out of place in the atmosphere of London. [Great cheering.]

Mr. W. E. FOSTER was sure the house had observed that there was a great difference between the tone of the honorable member for Horsham (Mr. Fitzgerald) and that of the honorable member from Liverpool (Mr. Horsfall) on the subject under discussion. The honorable member for Liverpool had read extracts from the trial in the case of the *Alexandra*, which could not be very intelligible to honorable members who had not (and he confessed himself to be among that number) read through that tedious trial. The honorable member had also laid down that it was of great importance to allow our shipbuilders to build vessels of war for other powers; but he did not think the honorable member's constituent would like, if we were at war with Austria or Prussia, that such vessels should be allowed to leave English ports for the purpose of preying on English commerce, in order that shipbuilding in this country might be encouraged. [Hear, hear.] The noble lord, the member for Stamford, (Lord R. Cecil,) had alluded to the case of the *Gibraltar*. This was not the first time the house had heard the noble lord state his opinion that the government had broken through the principle of neutrality. It would be fairer to both the government and the house if, instead of bringing forward such charges incidentally, noble lords and honorable members who made them introduced them by means of a direct vote of want of confidence in the government, founded on their having acted in that manner. [Hear, hear.] Again, the noble lord denied that the government had any right to detain those rams on their own responsibility. If that was the noble lord's opinion let him bring forward a vote of censure. [Hear, hear.] Coming to the motion of the honorable member for Horsham, there were two sets of papers included in the correspondence. One was the correspondence between our foreign office and Mr. Adams, or, as he supposed, between our foreign office and our minister in America; the other the correspondence between the government and the Messrs. Laird, the builders of the vessels. He was glad that the attorney general was willing to produce the first of these sets; for he thought it would be perfectly useless of our government to refuse to publish the official correspondence that had already been printed and circulated in America and this country. If the government did print it he hoped they would not cut out too much. He hoped they would not confine themselves to the English correspondence, because, among that which referred to France, a good deal of light was thrown on the negotiations which were carried on last year in that country by the honorable and learned member for Sheffield (Mr. Roebuck) and the honorable member for Sunderland (Mr. Lindsay) in reference to American affairs. [Hear, hear.] He felt sure

that when the whole of the papers were before the house, so far from showing that Earl Russell had made any unworthy concessions to a foreign power, they would contradict it [hear, hear;] but they would not afford that information which might be desired by the owners of the rams and those who spoke for them; they would not give the reason why the government had come to the conclusion that they might be able to prove a breach of the foreign enlistment act. [Hear, hear.] That information might be useful to the defendants in the proceedings; but he hoped the house would see that it was information which the government ought not to give these parties. [Hear.] The case alleged against the noble lord, the secretary for foreign affairs, was that in the beginning of September he wrote a letter to Mr. Adams, in which he stated that he did not think there were grounds on which the government could interfere with those rams; and that within two or three days after writing in those terms, he found there were grounds and took measures to detain the vessels. From those facts he presumed that there had been great doubt on Lord Russell's mind as to whether there were any grounds for detaining them, and that the noble earl would not, under such circumstances, accede to the demand of a foreign government for interference, but that between the time at which he wrote his first letter and the date of his second he received information upon which he determined to act. [Hear.] Was it not fairly to be assumed that the noble lord, having got certain information, acted upon it, and that he determined to detain those ships solely from what he knew, and not upon representations made by the American minister? No doubt it would be exceedingly useful for the purposes of some persons to find out what induced Earl Russell to suppose that the statement which had been made as to the French destination of the rams was untrue. But would the house allow itself to be made use of for the purpose of acquiring such information? [Hear, hear.] Then as to the general question, it was a matter of notoriety, on this and on the other side of the Atlantic, that in the yard of the Messrs. Laird, where the Alabama had been built, steam rams were in preparation to follow the example of the Alabama and inflict much more serious injury on American interests. The attorney general had read a letter detailing the plans resorted to by the confederate government to induce British subjects to violate British neutrality. For months previous to the detention of these rams a fear was expressed in the north and a hope in the south that they would issue forth; and that being so, and the government having reason to believe that the rams were intended for the confederate government, they took upon themselves the responsibility of detaining them under the provisions of the foreign enlistment act. Well, then, if the noble lord, or honorable gentlemen opposite, thought that the government deserved a vote of censure for so doing, let them boldly propose such a vote, and say they would not have done the same thing. [Hear.] It was his full belief that they would have done the same, not from any fear of war with America, but solely from a sense of what was required by English interests, which they, no doubt, had as much at heart as the present government had. [Hear, hear.] The noble lord seemed to think lightly of a war with America; but that was not the feeling of the country, nor did he believe it could be the feeling of the opposition, generally. Much had been said about Mr. Seward's despatch. He was not there to defend Mr. Seward; but it showed the necessities of honorable gentlemen opposite that they were obliged to cite despatches which had never been presented. [Hear, hear.] No doubt that despatch threatened England with war if these rams went forth; and if the case had been reversed—if an Alabama had sailed from an American port to prey upon English commerce, and we heard that she was to be followed by a fleet of rams, we should not merely have threatened, we should have declared positively that we should regard such an act as an act of war. [Hear, hear.] These men were our descendants, and we ought, therefore, to put ourselves in their position, and to consider what we should have done in a

like case. But the question was not one of peace or war alone; it was a question of English interests. If the precedent of the *Alabama* were to be followed, what was the use of our navy? What would be the use of blockading the ports of even a weak country? Why, in the event of war we should be obliged, if this precedent were allowed, to blockade the ports of every neutral nation. [Hear, hear.] With such tremendous interests at stake, therefore; with the possibility of a war against America, and not in a just cause; with our position as a great maritime country thus imperilled; with the enormous expenditure into which we should have been led had we allowed a breach of the law as between neutrals and belligerents; if the government had neglected their duty in the matter of these rams, he believed that nobody would have been more ready to blame them than honorable gentlemen opposite. [Hear, hear.]

Sir HUGH CAIRNS. In the observations which it will be my duty to make, I shall endeavor to bring back the house to the precise question on which we are called to vote; and I will begin by subscribing sincerely to what was said by the attorney general when he called on the house to acknowledge the impropriety of discussing the production of papers which would prejudice or affect pending legal proceedings. Now, if I thought that the production of these papers would affect pending legal proceedings, or that they were moved for to answer any such purpose, I should be the last person to support the motion. But I believe that they can have no such effect, and that their production is intended to have no such effect, and that every word which has fallen from the attorney general on the subject will show that they would not have that effect. [Hear, hear.] The papers asked for may be divided into two classes. One is the correspondence between her Majesty's government and the government of the United States with regard to these ships; the other consists of correspondence of a different kind between the government and the firm of Messrs. Laird, the builders. Now, I think it is very material to agree upon the purpose to be served by the production of these papers. With regard to the first, the object in asking for them is not to raise any question about our municipal statute, the foreign enlistment act, or as to the merits or demerits of the case of the shipbuilders under that act, but to ascertain what the House of Commons is most interested in knowing—namely, the demands grounded upon international law which have been made by the United States government respecting these ships, and the answers to these demands by the government of this country. [Hear, hear.] I can conceive no question so vital as this, and, at the same time, I am sorry to say that there is no question at the present day upon which the House of Commons has less information. [Hear, hear.] I would ask honorable members—I care not on which side of the house—"What do you conceive to be the precise demands made by the United States government upon her Majesty's government, respecting the departure of ships from this country, and what do you conceive to be the attitude taken by the British government in reply to these demands?" Why, I defy any person, judging from any paper laid before the House of Commons, to state with satisfaction what those demands and the answers have been. And yet this is the point which the House of Commons wants to know. We do not want to know the construction of the foreign enlistment act, and whether that act has or has not been violated. That is the business of the courts of law, and they will attend to it. But we want to know what is certainly our business. What has Mr. Seward alleged to be an infringement of international law in this matter? Has he said that it is an infringement of international law for armed ships to leave this country, or for unarmed ships to do so if they are subsequently armed? And, if so, what answer has been returned by the government of this country? I will assign one good reason for complaining of the state of doubt in which we have been left upon this point. In the wretched scrap of correspondence which has been laid before the house—the correspondence which is said

to have passed during last autumn between the United States government and the government of this country; it ought not to be called a correspondence, for it consists only of three letters, with a great number of claims sent in by the United States government—in these papers I find that Lord Russell, on the 27th of March last, wrote a despatch to be communicated to the American minister, and in that despatch he said that he wished the United States government to understand that he considered the case of the Alabama and the Oreto a scandal. The under-secretary of state (Mr. Layard) nods his head in agreement with that. Now, I am not going to express the least opinion upon the subject, because I know nothing about the Alabama, and never did. [“Oh!” and “Hear, hear.”] I want to know the facts. Of course I know what she is doing now. That is a matter of notoriety. But what did Lord Russell mean by saying that the case of the Alabama and the Oreto was a scandal? Did he mean that it was a scandal because, having laws to punish such a case, we did not enforce them? The under-secretary of state shakes his head at this. Well, then, did Lord Russell mean that it was a scandal that we had no laws to punish such cases? [Hear, hear.] He must have meant one of these two things. I have the disclaimer of the under-secretary as to the first. [Mr. Layard. No!] Oh, then, that shake of the head is withdrawn. [Laughter.] It is always dangerous to pin yourself to one horn of a dilemma until you have heard the other. [“Hear, hear,” and a laugh.] Now, let us suppose that the noble lord thought the case of the Alabama and the Oreto was a scandal; that having laws to punish, they were not put in force. Then I will ask this question—I know it is true that it is said, and it has been repeated here to-night, that the Alabama left this country without there being an opportunity for the government to seize her as a forfeited ship; I want to know this. The persons who were concerned in building the Alabama, and in sending her out of the country, were well known, and they never disputed the fact. I believe that in this house an honorable member stated the whole circumstances connected with the case, and the names of all the parties concerned. There is no doubt about the facts relating to the Alabama, and I want to know this: Supposing that the ship did leave this country, and that there was not time to seize her as a forfeited ship. If the laws of the country were violated, why did not the government indite the persons who admitted openly that they had sent the Alabama out of the country? [Hear, hear.] Remember, if there is a case for seizure, there is also a case for an indictment for a misdemeanor. If the noble earl meant that it was a scandal because, having laws, those laws were not enforced, I want to know why the government has not put them into force, in place of having these desultory and repeated allusions to the Alabama as a case in which some misdemeanor and infraction of the law has been committed. Now, take the other case of the Oreto. That case was mentioned in this house last year. I remember well that the attorney general stated that the Oreto left this country and went to Nassau, and these were his words: “We strained a point.” The attorney general has strained more than one point, as we shall see before all is over. [Hear.] He said on March 27, “To show our good faith to the American government we strained a point, [hear,] and we seized the Oreto at Nassau, where she was tried and was acquitted.” And the crown brought no appeal against the decision of the vice-admiralty court at Nassau, so that the Oreto stands a ship pronounced free from any breach of the provisions of the foreign enlistment act. I want, then, to know as to the Alabama and the Oreto, what it was the noble earl meant when he said the case was a scandal. But I have not done with the case of the Alabama. It was a most singular coincidence that on the very day the noble earl was writing his despatch to the United States government, containing those remarkable words, which we may be sure will not be forgotten by our friends across the water, upon that same day the honorable member for Bradford in this house appealed to the noble lord at the head of the government as

to the case of the *Alabama*. The honorable member stated fairly and ably, as he always does, his views as to the *Alabama*, and he called upon the noble lord to say that the *Alabama* had been guilty of an infringement of our laws, and to smooth over the matter to the American government by acknowledging that there had been some remissness which was much to be deplored. Upon the same day that the secretary of state for foreign affairs, writing to the American government, said it was a case of scandal, the noble lord at the head of the government, addressing an English audience and the House of Commons, said, "I have myself great doubt whether if we had seized the *Alabama* we should not have been liable to considerable damages." It is generally known that she sailed from this country unarmed and not properly fitted out for war, and that she received her armament, equipment, and crew in a foreign port. Therefore, whatever suspicions we may have had—and they were well founded, as it afterwards turned out—as to the intended destination of the vessel, her condition at that time would not have justified her seizure. [Hear, hear.] That is, to justify her seizure from any infringement of the law. But if there had been no infringement of the law, why was the case a scandal? [Hear, hear.] If there had been any infringement of the law, why were not the persons—whose names were well known—who sent out the vessel, why were they not indicted? Then, as the *Oreto* was tried and acquitted, why is her case a scandal? [Hear, hear.] Let us take the other branch of the dilemma. Did the noble earl mean that the case was a scandal because we had no better law to deal with the cases of the *Alabama* and the *Oreto*? Then, I ask, why have not the government—if such be their opinion—why have they not proposed an alteration of the law? The foreign secretary has more than once suggested that the government might come to this house and propose such an alteration. Then, I ask, if such was the opinion of the noble earl that this case was a scandal to our laws, because we had no law to meet it, why, as he remained in the government, did he not propose an alteration of the law? [Hear, hear.] Then, again, we have upon the very same day a declaration from the noble lord at the head of the government. While the noble earl was sending off his despatch to the government of the United States, the noble lord said in this house, as to the alteration of our law:

"I do hope and trust that the people and government of the United States will believe that we are doing our best in every case to execute the law; but they must not imagine that any cry which may be raised will induce us to come down to this house with a proposal to alter the law. We have had—I have had—some experience of what any attempt of that sort may be expected to lead to, [loud laughter,] and I think there are several gentlemen sitting on this bench who would not be disposed, if I were so inclined myself, to concur in any such proposition." [Hear, hear.]

That, I think, was a sensible view, and I can only wonder at and want an explanation of the despatch to our good friends across the water, leading to the belief that the opinion of our government was wholly different. I must say another word. We are told that these words of the noble earl—and very strong words they were for a minister to use—were referred to elsewhere, and the noble earl was asked to explain them. The noble earl explained them in this way. He said:

"I adhere to the opinion, and my reason is this: How can you describe in any other words an act of Parliament as to which the chief of one of our courts of law has said, 'You might sail a fleet of ships through it?'" That explanation again will go across the water, and will be read by our friends on the other side of the Atlantic, who will find it asserted that the chief of one of our courts has declared of the foreign enlistment act that a fleet of ships might be sailed through it. Will the house believe it possible that the noble earl could have fallen into the error I am going to expose? What that very eminent and learned person said was this: "If I were to adopt the construction which the crown desires to

put upon the foreign enlistment act, [hear, hear,] which I do not dispute, which I reprobate as false and erroneous, then, indeed, you might not drive a coach and six, but might sail a fleet of ships through the act of Parliament." [Hear, hear.] Now I think I have shown sufficient reason why the House of Commons should be anxious to have a full account, not merely from American reports and publications, but a full statement of the correspondence which has passed between the British government and the government of the United States. [Hear, hear.] I now come to the second portion of the papers which have been moved for—the correspondence between the different departments of the government and the Messrs. Laird, who are said to have been the builders of these ships. I wish to repeat, most emphatically, that I will endeavor not to say one word which can by any possibility verge upon whatever may be the merits of the case to be tried between the government and the persons connected with these ships. I agree that nothing should be said in this house to prejudice the pending case, but I wish the government had followed a similar course. [Hear, hear.] I can't help reminding the house, as it has been referred to prominently by the attorney general, of what the government have been doing all the time these ships have been detained or under seizure. The attorney general, as I understand his views, says that nothing must be said to prejudice the case of the government, but anything that will prejudice the case of the individuals with whom the government are in litigation is fair and right, and all the more fair and right if it comes from a member of the government. Let us take as a specimen that which I suppose is correct, as the American minister has reported it to his government, observing that the altered tone of Lord Russell greatly pleased him. Now, what was the new tone which so delighted the American minister? Upon the 9th of September these rams were seized. [The attorney general—"Detained."] The correction is important. They were detained on the 9th or 10th of September. About a fortnight or three weeks afterwards, addressing a select audience, who, no doubt, were most competent judges upon these matters, the noble earl treated them to his views upon the foreign enlistment act. He said:

"There are matters with regard to ships that have lately been prepared within this country, because these ships are not like ships that receive the usual equipment; they are not like vessels you sent in former times of war, but are in themselves, without any further armament, formed for acts of offence and war; they are steam rams, which might be used for purposes of war without ever touching the shore of a confederate port."

The good people of Blairgowrie no doubt attached a different meaning to the word "rams." [Hear, hear, and laughter.] The noble earl went on to say:

"Well, gentlemen, to permit ships of this kind knowingly to depart from this country, not to enter into a confederate port, not to enter the ports of a belligerent, would, as you see, expose our good faith to great suspicion."

I wish the house to remember what was the condition of affairs at that time. Messrs. Laird were the builders of these ships. They were said to have been built for a foreigner, M. Bravay, of Paris, and the allegation was that that statement was incorrect, and that, instead of being built for M. Bravay, they were intended for the confederate government. That was a matter to be proved by proper evidence. While the question is in this state, the foreign secretary thinks it is not prejudiced by his going to a select audience of his own choosing, and telling them that it is quite clear that these rams were intended for the confederate government. [Hear, hear.] But now I come to my honorable and learned friend the attorney general. He, following the example which prevailed, addressed his constituents, and what did he tell them?—"On the other hand, he hoped and believed that the people of the country at large would not be inclined to identify themselves in feeling with those merchants of ours who seemed to think that they were bound by no obligation to our laws at all."

[Hear, and a laugh.] No doubt, if such an expression had fallen from the honorable member who sits below the gangway, it might not have been of the slightest consequence, [a laugh;] no importance would have been attached to it. But it is very different when it falls from the first law officer of the crown, who is charged with the prosecution of such offences. "He hoped and believed that the people of the country at large would not be inclined to identify themselves in feeling with those merchants of ours who seemed to think that they were bound by no obligation to our laws at all, and that it was perfectly fair for them, if they chose, to carry on an unlawful trade with a belligerent power, while at the same time they knew that government were anxious, for the sake of the nation, to preserve a strict neutrality." Who were referred to? Of course I must pay the government the compliment of saying that if there were any merchants evincing a total disregard to the law, they would have prosecuted them. Therefore this could only refer to the cases *sub judice*—the Alexandria and the steam rams; and yet we have the first law officer of the crown going down to his constituents and saying, before the case was tried, they had violated the law. But this is not all, because we find the president of the board of trade also followed suit. He went down to Ashton and addressed his constituents, and I must say he went deeper into the subject than either of those who preceded him. He told the people of Ashton :

"I don't know whether any gentleman here has taken the trouble to read the legal arguments upon this question; but really I confess, for one, that I am unable to understand much of what has been said upon the subject. I am told that you may sail a fleet of ships through the foreign enlistment act. It may be so; but I will undertake to say that I will sail another fleet of ships through the construction which any of the lawyers has hitherto put upon that act. Common sense tells me that the confederate government are the parties who have, directly or indirectly, caused these ships to be built in this country, and that in so doing they entered upon a deliberate course of violating and evading the laws of England. I am no lawyer, but that is my construction, and I do not think you can sail a fleet of ships through that."

Yes; the laws of England, which the right honorable gentleman says he does not understand—the common sense which does not enable him to understand the law—does enable him to say that these parties had entered on a deliberate course of violating the laws of England. [Hear, hear.] "I am no lawyer, but that is my construction, and I don't think you can sail a fleet of ships through it." That was followed by great laughter. Well, but this is not, after all, a matter for drollery. Suppose this were a question of life; suppose a prisoner waiting his trial on a government prosecution for high treason, and suppose the attorney general, a secretary of state, and another cabinet minister went about addressing their constituents, and saying, "Don't talk about the law—never mind that; it is as certain as the sun shines the man is guilty." [Hear, hear.] The attorney general deprecated any word which might drop from any speaker that might prejudice the case of the crown, and he said—Talk of papers laid before Congress; another paper was laid before another congress; and he read a paper said to be signed by the under-secretary of the confederate government, stating something about iron-clad vessels being built in England, and connecting them with the rams in the Mersey. And he said, as matter of fact there could be no doubt these rams were intended for the confederate government. But that is the very point *sub judice*. [Hear.] Does the attorney general not know—what I suppose every other member but himself knows—that a gentleman, as I am informed, of high position in the Confederate States, has written a letter to the newspapers which referred to the letter read to-night, and which was also published in the newspapers, declaring it to be a gross forgery? [Hear, hear.] But so the fact is; such a statement has been made, and as publicly as the other document; and the person who makes that statement, who is inti-

mately conversant with the manner in which documents are laid before Congress, adds that it was not usual for documents in that shape or form to be laid before Congress. [Hear, hear.] Now, I want to see precisely the objects for which, I think, this second class of documents, the correspondence between the government and the Messrs. Laird, ought to be produced. It is not for the purpose of affecting the merits of the case, either as against the crown or the Messrs. Laird, that I support their production; it is for the purpose of seeing what course was taken by the government anterior to the seizure of these vessels, a course which raises constitutional questions of as great importance—I say so deliberately—as were ever brought before this house. [Hear, hear.] I speak with full consciousness of the gravity of the expressions I use when I charge the government—let there be no mistake—I charge the government with having done, and after hearing the attorney general to-night I say having done on their own confession, what was illegal and unconstitutional, without law, without justification, and without excuse. [Hear, hear.] We are told, not by documents laid on the table—we have had to search as we best could for documents elsewhere—we are told that on the 31st of August Earl Russell answered a memorial presented to him by four representatives of the Peace Society, who asked him to detain these rams in the Mersey. I will read to the house the material parts of that reply:

“GENTLEMEN: I have received your letter, calling my attention to a subject of very grave and pressing importance, viz: the fitting out and equipping of two powerful iron-plated steam rams, which you are informed are intended to commit hostilities against the government and people of the United States of America. My attention has long been directed to this subject. Both the treasury and the home department have, at my request, made the most anxious inquiries upon the subject of these steam rams. You are aware that, by the foreign enlistment act, a ship is liable to be detained, and its owners are subject to penalties, when the ship is armed or equipped for purposes of war, and its owners intend to use it against some state or community in friendship with her Majesty. It is necessary to prove both the equipment and the intention. But in order to prove the equipment and the intention it is necessary, for conviction in a British court of justice, to have the evidence of credible witnesses. I was in hopes, when I began to read your memorial, that you would propose to furnish me with evidence to prove that the steam rams in question were intended to carry on hostilities against the government and people of the United States of America; but you make no proposal of the sort, and only tell me that you ‘are informed’ so and so, and ‘it is believed’ so and so. You must be aware, however, that, according to British law, prosecutions cannot be set on foot upon the ground of the violation of the foreign enlistment act without affidavits of credible witnesses, as in other cases of important misdemeanors and crimes. Such, likewise, is the law in the United States of America.”

That was on the 31st of August. On the 1st of September the noble lord wrote to Mr. Adams and said this:

“In the first place, her Majesty’s government are advised that the information contained in the depositions is in a great measure mere hearsay evidence, and generally that it is not such as to show the intent or purpose necessary to make the building or fitting out of these vessels illegal under the foreign enlistment act. Secondly, it has been stated to her Majesty’s government at one time that these vessels have been built for Frenchmen, and at another that they belonged to the viceroy of Egypt, and that they were not intended for the so-called Confederate States. It is true that in your letter of the 25th of July you maintain that this statement as regards French ownership is a pretence, but the inquiries set on foot by her Majesty’s government have failed to show that it is without foundation. Whatever suspicion may be entertained by the United States consul at Liverpool as to the ultimate destination of these vessels, the

fact remains that Mr. Bravay, a French merchant residing at Paris, who is represented to be the person upon whose orders these ships have been built, has personally appeared, and has acted in that character at Liverpool. There is no legal evidence against Mr. Bravay's claim, nor anything to affect him with any illegal act or purpose; and the responsible agent of the customs at Liverpool affirms his belief that these vessels have not been built for the confederates. Under these circumstances, and having regard to the entire insufficiency of the depositions to prove any infraction of the law, her Majesty's government are advised that they cannot interfere in any way with these vessels."

That was the conclusion of the noble lord on the 1st of September; and having regard to the entire insufficiency of the depositions to prove any infraction of the law, her Majesty's government were advised that they cannot interfere in any way with these vessels, either by seizure or in any other manner. [Hear, hear.] Well, the next step was this: The noble lord has stated elsewhere that on the 3d of September, the next day but one, he had made up his mind to detain the rams, and he wrote a private letter to the noble lord at the head of the government stating that he had given orders for their detention. Facts of an important description, which, of course, he was not in any way obliged to mention—and I quite agree that it would be wrong for him to mention them—but important facts came to the knowledge of the government between the 1st and the 3d of September, which led to their entirely changing their intention, and resolving to take proceedings against the rams. Some time we may perhaps hear what these facts are which in so brief an interval came within their cognizance. But the next thing we find was this: The noble lord determines this on the 3d of September; and I cannot help thinking there were very just grounds for the observation of my honorable friend the member for Horsham, that if you had determined on that day even to detain these rams, do you think it was fair, candid, and above-board for you to write to the Messrs. Laird on the 14th of September a letter which—even granting that they invited it, and that it was in consequence of some statement they made—was entirely calculated to mislead them as to your views and intentions? For what does that letter amount to but this: "We understand you to be good enough to say that although you will not volunteer the information, yet if you are asked officially for whom you are building these ships you will tell. Be good enough, then, to let the foreign secretary know for whom they are being built." And, accordingly, on the 5th of September the Messrs. Laird unsuspectingly say that "the Messrs. Bravay allow us to send you their name." Yet all the while the foreign secretary, in concert with the noble lord at the head of the government, had resolved to take that step which he never breathed to the Messrs. Laird, and which he never communicated to them till the 9th of September. Well, on the 9th of that month this letter was written to those gentlemen, and I ask the house to reconcile it if they can—I confess I cannot—with the statement we have heard as to the important information which arrived between the 1st and the 3d of September, and which made the government change their views. It is written by the Secretary of the Treasury to the Messrs. Laird, and runs thus:

"GENTLEMEN: I am desired by my lords commissioners of her Majesty's treasury to acquaint you that their lordships have felt it their duty to issue orders to the commissioners of customs that the two iron-clad steamers now in course of completion in your dock, at Birkenhead, are not to be permitted to leave the Mersey until satisfactory evidence can be given of their destination, or, at least, till the inquiries which are now being prosecuted to obtain such evidence shall have been brought to a conclusion.

"G. A. HAMILTON.

"Messrs. LAIRD Brothers."

Well, but if all the facts had come to the knowledge of the government—
The ATTORNEY GENERAL. I said that "some information" had been received.

Sir H. CAIRNS. Well, that "some information," which, according to the attorney general, entirely changed the view of the government, produced a conversion as sudden as anything we ever heard of in history. [Hear, hear, and a laugh.] This is not a question as to Mr. Adams's letter, because I take their own statement. The statement of their organ in this house to-night is, that facts—"some" facts, if you like—came to their knowledge which converted them between the 1st and the 3d of September. But if that were so, how came you, on the 9th, to write, as regards the detention of the rams, that your intention was to keep them "till the inquiries which are now being prosecuted to obtain such evidence shall have been brought to a conclusion?" But so it was, and then the detention of the rams took place. Here I must set right a statement of the attorney general. It is said that the detention occurred on the 9th of September, and the seizure on the 9th of October, exactly one month afterwards. It is said also that during this time the detention had this operation—that the Messrs. Laird were not allowed to take the ships out of their dock on a trial trip, although they gave their personal undertaking to bring them back again after the trial trip was over. It is said, I know not how truly, that that permission was first given by the government and then withdrawn; but I don't care about that, or about the case of the Messrs. Laird. I beg the house to dis sever this matter from the case of individuals. It may, or it may not, have been more or less irksome to the Messrs. Laird, but I ask the house to look to the grave constitutional question involved. I demand to know from the government, for we have not been told yet, what was their authority for detaining those rams on the 9th of September. Does the attorney general say there was law for it? No; there is none. Does he say there is constitutional practice for it? No; there is none. But what he says—and I commend his answer to the house for their edification—is this: "We violate the law in order to vindicate the law." [Laughter and cheers.] For he says: "There was no reason to seize—there was no evidence—nothing had been done which gave us that right; but we remembered what we thought had been done in other cases; we remembered that ships had been expeditiously fitted out and sent from this country, and we had been unable to stop them; we were determined that that should not occur again." And, therefore, while no crime had been committed, [Oh! and cheers,]—why, if a crime had been committed, you had a right actually to seize, [cheers,]—but while no crime had been committed, while no evidence was obtained, while the government were afraid to seize the ships, they detained them, in order that it might be, in the course of weeks or of months, they might procure their evidence, and make out their case. [Cheers.] Now, I will take the attorney general's own analogy. He asks, "What do you do with a person accused of committing a crime? You take him before a magistrate, who receives certain evidence, and may remand him for a certain time that more evidence may be obtained." The attorney general forgot that here there is a seizure. The seizure is the arrest. The moment you arrest a man, which the law allows you to do, on a charge of felony or misdemeanor, you act strictly within the law there. The moment you arrest him you have made the seizure, and the law also says in the interests of justice that the magistrate may remand him within certain limits and a certain time while evidence is being produced; and, moreover, there are safeguards in the *habeas corpus* against the abuse of authority there. But that is not the case here. You say, indeed, that you acted on your public responsibility. Is not that the same wretched pretence which from the worst days of despotism downwards has always justified the acts of the executive government? Has not every breach committed by the executive been done on their own responsibility? Were not general warrants issued on the responsi-

bility of the government? It is no answer to say that the individual may have his action for damages where there has been a breach of the law. If I remember rightly, the persons who were arrested under general warrants had rights of action and recovered damages. Yet, although that was so, although the government said they had acted for the safety of the state, and on their own responsibility, the House of Commons solemnly pronounced the sentence that general warrants were illegal and unconstitutional. And I say again, that what was done in regard to these steam rams at Liverpool was as illegal and unconstitutional as any act ever committed by the executive government since the time of which I have spoken. [Cheers.] Well, it has been suggested on behalf of the government that after all a seizure and a detention are not very different; that seizure is the greater, and detention the less; that there was no greater interference with the Messrs. Laird and the enjoyment of their property by the one than by the other. I care nothing about what the exact amount of that interference may have been, but I do want to know from the government—and I hope we shall have this question plainly answered before this debate is over—I want to know whether the government really mean to claim the right to detain ships building all round the various ports of England, on the request of the American government, until inquiry shall have been made, or until the ship-builder, having the onus cast upon him, shall discharge it—the onus of showing the destination of the ship? [Hear, hear.] If that is the claim of the government let us hear it, and we shall know how to deal with it. If that is not their claim, how do they justify the detention of the ships in the Mersey? If they were right in September in detaining these vessels for a month, they will be right anywhere in England in detaining any ship merely on suspicion. But is it the fact that detention is less injurious than seizure? It requires no great skill to answer that question. If the government seize the ship they do the very thing that an act of Parliament authorizes; they commit no aggression on the law; and, moreover, the person whose ship is seized has a right to drive on the government, to make them continue the proceedings in a court and bring the ship to trial, and then it will be declared whether or not he is an offender against the law. But if you detain the ship, how can the owner bring the case to trial? I want to know from the government, and I trust that the House of Commons will demand from them an answer to this: How long do they claim a right to detain a ship? Do you claim it for one month, for two, for three, for six, or for twelve months? If you don't, where do you draw your line? What right have you to detain her for one month if you can't detain her for twelve? [Hear, hear.] Sir, I cannot help contrasting the course taken by the government in September, 1863, with some words which fell from the noble lord the first minister on the 27th of March, 1863. Speaking in this house on that occasion the noble lord said:

"Her Majesty's government will continue, as I maintain they have done hitherto, to enforce the law, whenever a case shall be brought before them in which they can safely act upon good and sufficient grounds; there must, however, be a deposition upon oath, and that deposition must be made upon facts that will stand examination before a court of law; for to call upon us arbitrarily and capriciously to seize vessels with respect to which no convincing evidence can afterwards be adduced, is to ask the government to adopt a course which would cast discredit upon them, and lead to much subsequent difficulty and embarrassment."

If you cannot capriciously seize a ship, what is that to be called which is the detention of a ship without cause for seizure, in order that you may, if it may be, obtain a case for seizure? [Hear, hear.] On the same day, the 27th of March, the attorney general, then solicitor general, laid down some very good constitutional law, which I am afraid he has forgotten. He said:

"The United States government have no right to complain of the act in

question; the foreign enlistment act is enforced in the way in which English laws are usually enforced against English subjects."

Now, where is your English law which authorizes you against an English subject to detain property under such circumstances? [Hear, hear.]

"On evidence and not on suspicion; on satisfactory testimony, and not on the mere accusations of a foreign minister or his agents."

And the honorable and learned gentleman went on to say:

"I might, perhaps, understand such a complaint if grounded on some such theory as this: That because the safeguards of liberty have been suspended under circumstances of civil war in the United States, therefore that they should be suspended in this country too, and the officers of our government should do illegal acts and violate the law on mere accusation and suspicion."

Six months have not passed over before the honorable and learned gentleman—advising, I suppose, the government—was guilty of the very offence which he reprobated then when he said that it was unjustifiable in the United States to ask us to imitate their conduct. [Hear, hear.] There is another matter connected with this which is of great importance, and to which I invite the attention of the chancellor of the exchequer. The house is aware that very large and extensive demands have been made by the government of the United States against this country for injuries occasioned by the Alabama. These demands were made during the whole of last year, and now amount to a sum which I am afraid to mention. Last year I heard the government on more than one occasion defend themselves against these claims, and I thought on very good grounds. I thought that the claims were most unfounded. I thought there was no pretence for alleging them. I accepted the defence of the government. But what was that defence? The defence of the government was this: "You complain of the Alabama. Well; assume for a moment that at the time of her departure from England she had been guilty of a violation of the foreign enlistment act, which we think doubtful; but, assume that she had, she may have been built under such circumstances, and with such speed, that no reasonable diligence on our part could have prevented her leaving." But, said the American minister, "Oh, yes; but I told you a considerable time before—I told you many weeks before—the reason that we had for suspecting her destination; and I gave you statements—some of them upon oath, and some not upon oath—which made it impossible but that any one should at all events feel a doubt whether that was not her destination." "Yes," said the government, "but we have no law which enables us to interpose in a case of that kind. We cannot detain a ship—we cannot act upon suspicion. If you show us a case which enables us to seize, then we can seize and abide by the consequences, because the law enables us to do that; but the law does not enable us to do what your American law may do," and I believe does—"it does not enable us to detain a ship merely on circumstances of suspicion, in order to make inquiry. Therefore," said the government to the United States last year, "your claims with regard to the Alabama are unfounded; for we did all that the law and constitution of the country allow us to do." But what becomes of that now? [Hear, hear.] What will you say to the American minister now? Don't you suppose that the American minister will come to you and say, "You told me last year that unless you had a case for seizure, and proof by proper evidence, you could not arrest a ship at all—that you could not detain her? Although you admitted that the facts I brought before you created very great suspicion, you said that you could not seize the Alabama; therefore, you could not touch her. But look what you did in September. For a whole month you detained these steam rams in the Mersey, while, according to your own words, you were collecting evidence and endeavoring to see whether your suspicions were well founded." [Hear, hear.] Now, I do not accept that view of the case. I do not accept the view that the government were justified in what they did; but I maintain that when the

United States hold this language, either our government must contend that what they did in September was unconstitutional, or they ought to have done the same with regard to the Alabama, and are liable. [Hear, hear.] Now, I have only a few words more to say with regard to the course which was taken after the seizure, and again I won't say a word as to the merits of the case, of which I know nothing. What was the course the government took? On the 9th of October they seized these rams. The house are tolerably aware that the next step to be taken is one almost of form—at all events, a very few days suffices if they have, as the government say they had at the time of the seizure, a full knowledge of the case—the next step is to file an information in the exchequer, but I am sorry to say that the law of the country is such, because it was a law made to deal with seizures of bales of tobacco and things of little value, that the crown cannot be actually driven to take a step in the court of exchequer for twelve months. In a case of this sort, however, where the property was of the value of nearly a quarter of a million of money—something like that amount has, I am informed, been expended on these ships—surely it was the duty of the government, when they did seize the ships, to use promptitude and despatch to bring the case to trial. Well, now, will the house believe it that from the 19th of October until the 8th of February, which is exactly four months, not a single step was taken, no information was filed in the exchequer; and I don't think I am going too far when I say that if this house had not assembled a very few days before that time the information would not have been filed by it? [Hear, hear.] But that is not all. What was done with the ships in the mean time? We saw from the ordinary sources of information that they were taken out of the dock and laid in the Mersey under the charge of the government. Now, if a quarter of a million of money has been expended on these ships, I ask the house to consider what the loss per month must be to the persons who have laid out that sum. [Hear, hear.] I do not suppose that it is an inordinate estimate to treat money in commerce as worth 10 per cent., and at that rate you will get a loss of something like £2,000 a month, in addition to the inconvenience, which cannot be exaggerated in mercantile affairs, of what is called "lying out of the money." I suppose I am not going too far in saying that if any but a large and well-established house with great resources had been subjected to an occurrence of this kind, it must have occasioned its ruin. [Hear, hear.] But is that all? We have had another confession from the government to-night. While the ships are under detention, be it observed, after the government have put their embargo upon them, when they won't let them go out for a trial trip, when they have announced that they are getting up evidence to make a case for the seizure and forfeit of the ships if they can, they send down an officer of the admiralty to deal with the owners for the sale of their ships. [Hear, hear.] I was quite amused at the manner in which the attorney general dealt with this. He said, "Well, it was a very kind thing, a very humane thing. The government did not wish to push the owners to extremity. They thought there might be difficulties, and it would be as well if they paid the money to the owners for the ships. I want the attorney general to tell me what does he think of dealing with a man round whose neck the government has got its embargo? The honorable and learned gentleman is accustomed to deal with what are called questions of equity in contracts and bargains of this kind. Is it his idea that it is a fair thing for a government to use, not a process of law, for there was no process of law used nor that could be used, but by using the strong, violent, and unconstitutional hand of the executive to detain these ships, to tell those who had built them that the government were getting up a case to confiscate them, and then while that is being done to send down an agent of the admiralty to treat? [Cheers.] "To treat!" Is it not a mockery? Is not that word a mockery? Was that fair dealing? Was that a seller and buyer at arms'-length and on an even footing? The government with its hands upon

the ships, the government asserting that the day was coming when the ships would be forfeited, and then going and saying to the builder, "Come, now, sell us these ships; let us buy them of you." [Renewed cheering.] But what is the climax? The climax is this: The month of February comes at last. Parliament meets, and the information can no longer be delayed. It must be filed, and then we have the last letter from the treasury to Messrs. Laird, which I hope the house will have printed for its perusal in the papers about to be produced. It begins with another piece of mockery, for it is headed "Immediate." [A laugh.] After four months the treasury woke up and said:

"[Immediate.]

"TREASURY CHAMBERS, *February 8, 1864.*

"GENTLEMEN: In reply to your letter of the 3d instant, I am commanded by the lords commissioners of her Majesty's treasury to acquaint you that they are informed that an information in the case of the iron-clad vessels built by you, and now under seizure by her Majesty's government, will be filed in a few days, and that it may be necessary to send a commission abroad for the purpose of collecting evidence.

"GEORGE A. HAMILTON.

"Messrs. LAIRD BROTHERS."

[Laughter and cheers.] Collecting evidence! The seizure, according to the government, could only be made upon evidence, and four months after the seizure the government are going to collect evidence abroad. We have not got many papers from the government this year, but I trust that the house will insist upon the production of these. [Prolonged cheering.]

The SOLICITOR GENERAL. I am happy to agree with my honorable and learned friend in one or two of the propositions which he laid down. He stated that the latter class of papers, the production of which is required, would not affect the trial of this case, and would not, indeed, be evidence in it. I agree with him. He also said that it was proper that the house should know the tone of the correspondence between the American government and our own. I agree with him. The house has a right to know that, and the papers will be produced. I therefore cannot help thinking that my learned friend might have saved a great portion of his argument as to the production of those papers, knowing very well before he got up that it was the intention of the government to produce them. He went on to give the house his opinion, as counsel for Mr. Laird; [Sir Hugh Cairns made a gesture of dissent.] Why, we all know that.

Sir H. CAIRNS. I beg to say that my learned friend knows nothing at all on the subject.

The SOLICITOR GENERAL. He was in the case at all events.

Sir H. CAIRNS. Never. [Loud cheering.]

The SOLICITOR GENERAL. My learned friend, I am sure, will forgive me if I was under a misapprehension. [Renewed cheering.] But my honorable and learned friend appeared in the last case of the *Alexandra*, and I certainly supposed, from the tenor of his address, a good part of which appeared to me in some measure calculated for a jury, [loud cries of "Oh," and cheers.] that it was a rehearsal of the speech which he intended hereafter to deliver in the case. [Renewed cries of "Oh, oh!"] He gave his opinion, whatever it may be worth, and I do not at all wish to detract from the value of that opinion, that the production of the first class of documents, viz: the correspondence between the government and Messrs. Laird, would not in any degree affect the trial. The house will do the attorney general, upon whom the responsibility of this prosecution rests, and myself the justice to suppose that it is not one which we should have undertaken lightly or suddenly. The attorney general is of opinion that the production of this correspondence would tend to prejudice the

case. The distinction between the two kinds of correspondence here is, that one is admissible as evidence in a court of justice, and the other is not. Now we all know that the production of only one portion of a case may lead to an utterly wrong and unfounded conclusion, and that if we desire to form an opinion according to the evidence we ought to have the whole of that evidence before us. [Hear.] If the correspondence written under advice by Mr. Laird and the answers of the crown be produced, without any explanation of the circumstances under which those letters were written, or the information obtained which induced us to write in those terms, it would be impossible for any one reading the correspondence to come to a right conclusion. [Hear, hear.] If the house should think that we have improperly instituted this prosecution, and that her Majesty's government ought not to be intrusted with the powers they possess, it is proper for the house to say so. But I ask the house, if we are permitted to conduct this prosecution, to allow us to conduct it in the same way as all other government prosecutions. [Hear, hear.] I never remember hearing of a case, and I do not believe there is an instance, in which a government conducting a prosecution has been called on to produce to the House of Commons before the trial portions of the evidence obtained for the purposes of the prosecution. As my honorable and learned friend expressed a desire not to prejudice the trial, or at all to discuss the merits of the case on this occasion, I might have been satisfied with that answer, which is all that applies to the particular motion before the house; but the debate has travelled much further afield. The noble lord, the member for Stamford, and other members of this house, have accused the government of pusillanimity, of acting under the dictation of the American government, and of sacrificing the honor of this country. ["Hear, hear," from the opposition benches.] It appears to me that nothing more vitally concerns the honor of this country than the strict and scrupulous observance, now that we are neutrals, of those rules which we laid down when we were belligerents. [Hear, hear.] And if there be any rule of international law on which we insisted more strongly than another, it was that neutrals should not be permitted to supply ships-of-war to belligerents. Allow me to call attention to the position we have taken on this subject; for I cannot conceive anything more disgraceful or more calculated to lower this country in the eyes of the world than the reproach, assuming it to be well founded, "Your rules of international law are elastic, contracting or expanding according to your temporal interests; you lay down one law as belligerents which you will not bear as neutrals." [Hear, hear.] As long ago as 1793 we insisted that the American government should not supply France, with whom we were then engaged in hostilities, with vessels-of-war. We required them to detain those vessels, and Washington did detain them, before any foreign enlistment act was passed. [Cheers.] Washington not only detained the vessels at our instance, but he proposed and carried in Congress the American foreign enlistment act, as his enemies then said, at our dictation. [Hear, hear.] Precisely the same attacks which are now directed against her Majesty's government in this house were then directed against Washington in Congress. There were members of Congress who said that he was truckling to England, and allowing the English ambassador to dictate to him; they lamented the humiliation of their country, and declared that the stars and stripes had been dragged in the dust. But Washington despised the imputation of cowardice; he was strong enough not to be thought afraid, [cheers,] and in spite of clamor—for there will always be clamorous and excitable men in all popular assemblies [much laughter and cheering]—Washington pursued the course which he knew to be just and at the same time best calculated for the interest and welfare of his own country. He passed the foreign enlistment act, and a treaty was subsequently entered into stipulating, among other things, for the restoration of prizes captured by vessels that were fitted out in American ports. I will not say whether we have

any grievances against the federals or not; no doubt irritating language has been used, no doubt the press in America at times has been very offensive, and objectionable expressions have been used at times by public men. But I wish to impress upon the house that as far as the enforcement of the federal enlistment act is concerned, we have absolutely no grievance against them. They have again and again restored prizes captured in violation of that act. As recently as the Russian war, in a case where we complained that a vessel, called the Maury, was fitted out in violation of the foreign enlistment act, they immediately detained that vessel, her clearance was stopped, and an inquiry was subsequently directed—precisely the same course as that pursued by her Majesty's government in this case—and that inquiry, conducted entirely to our satisfaction, ended in our expressing a belief that there were no real grounds for the suppositions entertained. [Hear, hear.] In the interests of peace and amity between the two countries, therefore, I wish the house to understand that we have no grievance against them with regard to the foreign enlistment act, and that it deeply concerns our honor to enforce the foreign enlistment act. But can we doubt that it also concerns our interests? I do not desire to reflect on any gentleman entertaining confederate sympathies. I can quite enter into those sympathies. It is in keeping with the generosity of Englishmen that we should forget that the southern party were at one time most bitter in their hostility to this country; that we should even lay aside for a time our abhorrence of slavery, and view the confederates only as a brave people maintaining an unequal struggle for independence. Our sympathies are always on the side of the weak. [An honorable member: "What about Denmark?" and cries of "Hear, hear."] But I think we should be doing very wrong if we allowed our sympathies to guide us. [Hear, hear.] Why do the federals insist that neutral nations shall not be permitted to supply the confederates with vessels-of-war? Why, because they are the stronger power. And why would it be for our interest to insist upon the same rule against all the world? Because we are the strongest maritime power. And are we now to promulgate the opposite doctrine—the doctrine that a weak power is to be put on a footing of equality with us by using the ports of neutral states for the purpose of fitting out vessels-of-war? That would be a doctrine hailed with delight by the enemies of this country all over the world, because it would go to the very foundations of our maritime strength. [Cheers.] Suppose, unhappily, we were at war with the United States—a consummation, I suppose, which no man desires, although speeches in this house sometimes seem to have that tendency—and we had blockaded all their ports, should we permit steam rams to issue from the ports of France? That is a question which I desire to have answered. [Cheers.] Would my honorable and learned friend, if he were the adviser of the government, be imposed upon by representations that those vessels were intended for the Pasha of Egypt or for the Danish government? He would very properly decline to be duped by any such assertions. We have done that which we should expect others to do for us, and we have done no more. [Hear, hear.] Circumstances came to the knowledge of the government which excited their suspicion. What did they do? On the Messrs. Laird volunteering to do so, the government said, "Will you give us information?" Well, information was given, but it was not satisfactory to the government, and, so far from removing, it increased their suspicion. [Hear.] The government had the depositions of sworn witnesses which confirmed those suspicions, and they felt it to be their duty either to seize or detain the ships. The honorable and learned gentleman has found fault with them because they took the milder instead of the more severe course. It was not necessary, in order to justify the seizure, that the evidence should be sufficient to satisfy a jury; it was enough that the government had a *prima facie* case, such as would induce a magistrate to remand a prisoner. These were depositions on oath, which, to a certain extent,

made out a case. The government determined to make inquiries whether these vessels were really being made for M. Bravay or other parties. They offered to take these persons at their word, and they said, "Will you sell these vessels?" If they were really being made for these gentlemen, they would have been too glad to accept the offer. But, of course, the parties concerned would not sell them. Could any human being doubt that they were intended for the service of the confederates? [Cheers.] My honorable and learned friend finds fault with the attorney general and other members of her Majesty's government for stating their belief that these vessels were intended for the Confederate States. If they had not entertained that belief, they would have done very wrong in detaining them. Of course we entertained that belief, or we should have been guilty of taking an unjust course. Has any gentleman on the other side expressed a contrary opinion during all this vituperation and all these attacks on her Majesty's government? No doubt they were intended for the confederate service, and not for a French gentleman or the Pasha of Egypt. What was the Pasha of Egypt to them, or they to the Pasha of Egypt? Then, what was the use of disguising a belief that was entertained by the whole country? [Hear, hear.] It would only be a mockery—it would only be trifling with the house to pretend that the government did not entertain that belief. [An honorable member: "That was not enough."] I quite agree that if it were notorious that the vessels were intended for the confederate service, but if no evidence could be procured, the ships must be acquitted. It would be better that any number of ships should leave our ports for the confederate service rather than the rules of law should be violated. [Hear.] We must prove our case, but the house will not expect me now to say what our case is. [Hear.] We believe the evidence we shall produce will be sufficient; if we are wrong, the jury will do justice between the crown and the subject. My honorable and learned friend endeavored to fix the noble lord at the head of the foreign office on the horns of a dilemma in regard to what he said about the Alabama. But this, like many other dilemmas, has three horns, and might more correctly be called a trilemma. What the noble lord meant in saying that the case of the Alabama was a scandal was, that, in the opinion of the law officers of the crown, the vessel ought to have been stopped before she left Liverpool. That opinion was given just before the vessel got away by stratagem. A telegram was sent down to stop the Alabama, but she had gone away that morning on a pleasure trip, and she had not returned. When a notorious criminal escapes from justice it is said "that is a scandal to the law," and that was about all that the noble lord meant. ["Oh!"] The house will believe me when I say that, in dealing with new and difficult questions for which precedents cannot be found in the books, the attorney general and myself have followed the lights of the highest authorities in Europe and America, whose decisions on these subjects command respect. I shall not have the presumption to say that we have always been right. But this I will say, that we have endeavored to pursue the straight path, turning neither to the right hand nor to the left, showing no sympathy for the weaker nor fear for the stronger, and suffering no indignity from any. When our territorial rights were infringed, as in the case of the Chesapeake, we applied for and obtained redress. We have done the same in other cases; and in the case of the Saxon, where a murder was committed, we lost no time in demanding that the murderer should be put upon his trial. But it is only just to act towards the American government as we should ask them to act to us if our positions were reversed. We have endeavored to do as we would be done by, and I venture to say that in taking that course we have most consulted the interests and the honor of this country. [Cheers.]

Mr. WALPOLE. If it were not for two observations made by the solicitor general, in which I entirely concur, but which I see reason to qualify, I should not venture to trespass on the attention of the house after the great and constitutional speech which we have heard from my honorable and learned friend,

(Sir H. Cairns.) [Cheers.] I believe that since the days of Sir W. Grant and Sir James Mackintosh a greater speech has not been made on questions of international and constitutional law. [Cheers.] And I venture to remind my honorable and learned friend, the solicitor general, that to the points of the speech for which my honorable and learned friend below me asked for an answer no answer has been given. [Loud cheers.] The solicitor general rests the whole of his argument on these two propositions—that we ought to do to America as we would have America do to us. That no one disputes. The other argument is, that we, being neutrals now, ought to act as we expected neutrals to act to us when we were at war. In both these propositions I concur; but I would ask him whether, by the doctrine he has laid down, he is asking us, as a neutral nation, to exercise merely neutral rights, or whether he has asked us to abandon neutral rights? [Cheers.] I have observed that the fallacy which ran through the argument of my honorable friend, and in some respects through that of the attorney general also, is that of confounding the obligations of our municipal law with those of international law. [Cheers.] My learned friend, the attorney general, runs from one of these to the other, as if they were identical. Now, I take leave to say that the two things are entirely distinct. Municipal laws, unless they are embodied in conventions and agreements, give no right to foreign states to call on a government to interfere, either on the ground that there are new rights to be enforced or new duties to be preserved. But this municipal law has not been embodied in any international convention, and if the rights of the crown were pushed to their legitimate consequence, no government could sanction such a convention. But the rights arising out of international law are entirely different. They are as universal as the world; the same in America as in England. In dealing with other states on international law your municipal laws are not worth a rush, and you are bound to recognize the international law. That shows the utter fallacy of the arguments of my learned friends. They have confounded the duties of a neutral state with the duties of the commercial subjects of a neutral power. This distinction is most important. A neutral state cannot favor either belligerent, cannot supply them with arms, ammunition, or ships-of-war, or allow its citizens to be enlisted in their army or navy. But it has always been a principle affirmed by the greatest jurists, and recognized by America as well as by this country, that the commercial subjects of a neutral power have no rights taken away from them in regard to carrying on any lawful trade whatever, in time of war as in time of peace, subject only to one qualification. It matters not a rush whether the subjects of a neutral state supply belligerents with arms, ammunition, ships, or contraband of war; but in carrying on this trade they are subject to this penalty—that they know their property may be confiscated if they violate the law. [Hear.] My honorable and learned friend would do well to bear in mind the distinction. But, acting on the notion upon which he has grounded the whole of his arguments, he says, “Look what America has done in your case. Did America allow ships-of-war to go out of her ports when you were at war?” And, by a slip of the tongue, I hope it was, he seemed to say that it was absolutely contrary to the laws of nations to furnish any country with a ship-of-war. Where did my honorable and learned friend learn that? [Hear.] What country has ever laid it down? Has America? [Hear, hear.] Go and consult that learned man, Judge Story. [Hear, hear.] He has told you that ammunition, and ships, and arms, and all kinds of contraband of war may be furnished by a neutral to a belligerent, but at the risk and peril of those who furnish them. [Hear.] And my honorable and learned friend quotes the case of 1793, and also the case of the Maury at the time of the Russian war. He quotes those cases, but, pardon me, he rather misquotes them. [Cheers.] Why, in 1793 it was the case of ships built, fitted out and armed, and ready to go as privateers. [Hear.] These were the ships that Washington stopped. [Hear.] What was the case of the Maury? That ship had her guns in her,

and she was only stopped when she was fitted out, contrary to their own foreign enlistment act as much as it would be contrary to ours. [Hear, hear.] The only authorities, therefore, which my honorable and learned friend quoted were not the least in his favor. [Hear, hear.] But I must say, if you are to run your municipal laws into your international laws, and mix them up so that you cannot sever them, as the learned attorney general has failed to sever them, what will be the consequence? I have always understood that when a municipal law which is of a highly penal character is passed, the crown can only enforce it by strictly adhering to its principles. [Hear, hear.] But my honorable and learned friend, deviating from the only ground he could have taken up, says that the crown on its own responsibility and exercising its prerogative will import into this statutory obligation—for it is only a statutory obligation—a prerogative greater than was ever exercised by any arbitrary sovereign. [Hear, hear.] Your laws, if they are to be observed, the peace of the world, if it is to be preserved, can only be preserved by adhering strictly, regularly, and consistently to those great principles of international law which are not the laws of Europe only, but of America also. [Hear, hear.] And the greatest principle of all is this, that when other countries chance to go to war, neutrals are deprived of no rights which they possessed in the ordinary course of their business before. [Hear.] Well, my honorable and learned friend, the solicitor general, in attempting to answer the only other position of the speech of my honorable and learned friend, the member for Belfast, tries to explain away the dilemma in which my honorable and learned friend had placed Lord Russell. I thought his explanation anything but satisfactory. [Hear, hear.] But I was glad it was attempted, because it reminded me of the line of policy which Lord Russell had taken with regard to the Alabama, and which is totally different from that which the law officers of the crown are now pursuing. The honorable and learned member for Belfast reminded the house that Lord Russell said the case of the Alabama was “a scandal.” [Hear, hear.] But such was not Lord Russell’s opinion a year ago. Nay, more, I will say that as recently as last October Lord Russell’s opinion was much sounder, because it has more bearing on the question, and was in exact conformity with the great principles which I have endeavored to sustain. [Hear, hear.] If the American government has a right to call upon us to stop ships which it cannot prove to be built, and equipped, and armed, and fitted out in violation of the foreign enlistment act, upon what do they ground that right? I will show you upon what Mr. Adams grounds it, and I will give you the answer of Lord Russell. Mr. Adams, writing to Lord Russell on the 23d of October, 1863, says:

“The United States are compelled to assume that they gave due and sufficient previous notice to her Majesty’s government that this criminal enterprise was begun, and in regular process of execution, through the agencies herein described, in one of her Majesty’s ports. They cannot resist the conclusion that the government was then bound by treaty obligations and by the law of nations to prevent the execution of it. [What treaty obligations? I know of none. (Hear, hear.)] Had it acted with the promptness and energy required by the emergency, they cannot but feel assured the whole scheme must have been frustrated. The United States are ready to admit that it did act so far as to acknowledge the propriety of detaining this vessel for the reasons assigned, but they are constrained to object that valuable time was lost in delays, and that the effort when attempted was too soon abandoned. They cannot consider the justice of their claim for reparation liable to be affected by any circumstances connected with those mere forms of proceeding on the part of Great Britain which are exclusively within her own control.”

Now the gravity of that sentence must not be forgotten. The claim is made upon two grounds—treaties and the law of nations. But there are no treaties, and the law of nations is as I have stated. [Hear.] But what is the meaning of the claim for all the injuries done by the Alabama? Are the government

going to admit that such a claim is to be entertained for a single moment? What does Lord Russell say? And here I find the sound views upon which the government ought to act. They will be found in page 42 of the papers. Lord Russell, writing on the 26th of October, 1863, says:

"With this declaration her Majesty's government may well be content to await the time when a calm and candid examination of the facts and principles involved in the case of the Alabama may, in the opinion of the government of the United States, usefully be undertaken. In the mean time I must request you to believe that the principle contended for by her Majesty's government is not that of commissioning, equipping, and manning vessels in our ports to cruise against either of the belligerent parties—a principle which was so justly and unequivocally condemned by the President of the United States in 1793, as recorded by Mr. Jefferson in his letter to Mr. Hammond of the 13th of May of that year. But the British government must decline to be responsible for the acts of parties who fit out a seeming merchant ship, send her to a port or to waters far from the jurisdiction of British courts, and there commission, equip, and man her as a vessel-of-war. Her Majesty's government fear that if an admitted principle were thus made elastic to suit a particular case, the trade of ship-building, in which our people excel, and which is to great numbers of them a source of honest livelihood, would be seriously embarrassed and impeded. I may add that it appears strange that, notwithstanding the large and powerful naval force possessed by the government of the United States, no efficient measures have been taken by that government to capture the Alabama." [Hear, hear.]

Now, with great deference to the law officers of the crown, I prefer the international and constitutional view taken by Lord Russell to that which is taken by them. [Hear, hear.] That view, I am persuaded, is sound; and when I hear my honorable and learned friend, the member for Belfast, go over step by step the course which the government have taken—when I find they were actually, as it were, inviting evidence against the builders of those ships by communications, the answers to which might be turned against them—when I see they were acting without any authority in detaining the ships, the act of Parliament giving them no such power—when I hear, and it was not contradicted and cannot be contradicted, that the seizure was made on the 9th of October, I think, and that no proceedings whatever were taken until the 6th or the 8th of February, (hear, hear,) I must put it to the merchants of this house and beg them to consider, in behalf of their great mercantile interests, whether they are to be—I was going to say—trifled with by arguments like those of the learned solicitor general? [Hear, hear.] Ship-builders are no more acting contrary to the law of nations in building ships for sale than merchants are in sending goods to break the blockade or in manufacturing arms to be used against the federals. [Hear, hear.] When I see all these things, and find the other side of the house echoing to the roof the observation of the solicitor general that the merchants of this country would do well not to violate the law of nations and the obligations imposed upon them by the proclamation of their Queen, my answer is, they do it at their peril if they send out articles contraband of war, but they do no more wrong or act no more contrary to the royal proclamation in building ships to sell them to the confederates than they do in sending out guns or ammunition with the view to break the blockade. [Hear, hear.] Let it not be supposed that I wish to show my sympathies to the one side rather than the other in that tremendous conflict which is now raging beyond the Atlantic. I have never spoken on that subject in this house. If I were to give expression to my sympathies, it would be seen that they are not those which the solicitor general imagines exist on these benches. They would be partly in favor of that brave people who are endeavoring to assert their independence against the oppression to which they believe they are exposed; but my sympathies, as well as those of the country, were, I believe, in

the commencement of this fearful struggle, so far enlisted with the north as to lead us to hope that the Union would be preserved. It is not, therefore, because I sympathize with one side rather than the other, but for the purpose of maintaining intact the great principles of international law that I have deemed it right to address these few observations to the house. [Cheers.]

MR. T. BARING. I had not intended to trouble the house with a single word on this occasion, but as my right honorable friend who has just spoken has appealed to the merchants of his country in support of the sentiments to which he as well as the honorable and learned member for Belfast has given expression, and as an humble member of the mercantile community, and not assuming to myself in any way authority to represent it here, I cannot help protesting against the doctrines which he has laid down. [Cheers from the ministerial benches.] I for one cannot think that by sanctioning measures which would lead to privateers and war vessels being fitted out at neutral ports to take part in the contest now raging across the Atlantic we should benefit the commercial community. [Cheers.] What community, let me ask, would suffer more than the mercantile classes of this country if that system were generally supported and that principle adopted? What would take place in the event of a war breaking out between us and another nation, if it were allowed to a neutral country to arm vessels as pirates to destroy our commerce? We are not uninterested in this matter. As merchants we are interested in maintaining that principle which we supported and propounded ourselves when we were engaged in war. We are interested in the principle adopted by Jefferson, and which, if it be broken through now, may be acted upon to our injury hereafter. [Cheers.] My right honorable friend says that neutrals are authorized to trade. Yes, but there is a law which says we are not to equip vessels for warlike purposes. [Cheers.] And does my right honorable friend, I would ask, mean to contend that these vessels, the case of which we are discussing, armed as they were with rams, are merely innocent commercial ships [renewed cheers] intended to be used simply for commercial purposes, and which would be misused if adapted to the purposes of war? [Hear, hear.] Will he not allow that the mode in which they were constructed shows the object for which they were destined? [Hear, hear.] My right honorable friend says that the solicitor general did not answer the question put by the honorable and learned member for Belfast; but there was another question which he himself did not answer. Does he believe that these vessels were equipped for warlike purposes? That is a question which I am sure he would not undertake to answer in the negative. [Hear, hear.] But be that as it may, I, as an humble member of the commercial community, speaking in support of my interests, ["Hear, hear," and a laugh,] rejoice to say that those interests are identified with the blessings of peace. I may add, that on the continuance of those blessings rests not only the progress of civilization, but the greatness of this country; and when I hear honorable gentlemen on this side of the house taunting the government, as it were, with not precipitating us into a war, I have, I confess, no sympathy with them. [Loud cheers from the ministerial benches.] In speaking thus I am, I allow, advocating my own interests, [ironical cheers from the opposition,] but in doing so I believe I am advocating also the interests of my country and of humanity [Cheers.] This I would say in conclusion, that if the speeches of my right honorable friend and the honorable and learned member for Belfast are to be taken as furnishing the grounds on which we are to divide to-night, they seem to me to have arrived, by simply moving for these papers, at a most lame and impotent conclusion. [Hear, hear.] Why do not they at once move a vote of censure on the government or on the law officers of the crown for the course which they have pursued? [Hear.] For my own part, I offer to the noble lord, the foreign secretary, and to those gentlemen by whom he is advised in those matters, although I think they are open to grave censure for not having prevented the departure of the Alabama, my thanks for their conduct on this

occasion, deeming it, as I do, to be calculated to promote the welfare of the State. [Loud cheers.]

Mr. S. FITZGERALD thought the observations of the honorable gentleman who had just spoken were of a character which demanded that they should not be allowed to pass without comment. [Ironical cheers.] Out of the entire of his speech there was only one sentence to which he had listened with anything like satisfaction, and that conveyed the statement that the honorable gentleman, though ranking among the merchant princes of the country, did not represent the mercantile community of England that evening, but spoke simply in his own name. [Cheers and counter-cheers.] He would further observe that not a word had fallen either from himself or from those around him which could justify the honorable gentleman in assuming that they were the advocates of war, [hear, hear,] while he entirely dissented from him in the view that the law officers of the crown were entitled to thanks for the course which they had, in the present instance, pursued. A more important question than that under discussion, he might add, he concurred with the honorable member for Belfast in thinking had seldom been brought under the consideration of the house, though the ground upon which he mainly rested that opinion was that the present was the first occasion on which for many years a minister of the crown had ventured to stand up in his place in the House of Commons in deliberate breach of the law. [Cheers.] The attorney general had stated that the ships in question had been seized because the crown had grave suspicions as to the intentions of the builders, and that they were detained until sufficient evidence could be procured of the justice of that suspicion. But let him suppose that the result of the inquiry had been that the object of the builders was a lawful and innocent one, would not the right honorable gentleman then have to admit that the law had been deliberately broken, and that the power of the executive had been brought to bear against persons who were blameless? For his own part, great advantage had, he thought, resulted from the discussion, tending as it did to show that in the eyes of the House of Commons nothing would justify, on the part of the government, a breach of the law. [Hear, hear.]

Sir G. GRAY wished it to be clearly understood, before the house proceeded to a division, that the papers asked for in the latter part of the motion the government were ready to grant; and that the negative which the government gave to the motion applied only to the former part, relating to the correspondence between the various departments of government and Messrs. Laird.

The house then divided; the numbers were—

For the motion.....	153
Against it	178
Majority	—25

The declaration of the numbers was followed by cheers from the ministerial side of the house.

Mr. Adams to Mr. Seward.

No. 605.]

LEGATION OF THE UNITED STATES.

London, February 25, 1864.

SIR: I have the honor to transmit copies of a note received from E. Hamilton, esq., and of my reply. I have requested the despatch agent to obtain the package mentioned, and transmit it to the department.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

Mr. Hamilton to Mr. Adams.

5 CANNON STREET, LONDON, E. E.,
February 22, 1864.

SIR: I have the honor to inform you that I have received a box of parliamentary papers from the colony of New South Wales for presentation to the Congress of the United States, and I am instructed to deliver them to your order. The papers are safely packed for sea voyage.

I have the honor to be, sir, your obedient servant,

EDW'D HAMILTON,

Rep. Agent of New South Wales.

HON. C. FRANCIS ADAMS, &c., &c., &c.,
Minister of the United States.

Mr. Adams to Mr. Hamilton.

LEGATION OF THE UNITED STATES,
London, February 23, 1864.

SIR: I have to acknowledge the reception of your note of yesterday, apprising me of your having received from the colony of New South Wales a box of parliamentary papers for presentation to the Congress of the United States.

I shall take great pleasure in informing my government of this proceeding, and in directing the despatch agent of the United States to take charge of the papers and transmit them to their destination.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

EDW'D HAMILTON, Esq.,

Rep. Agent of New South Wales, London.

No. 606.]

Mr. Adams to Mr. Seward.

LEGATION OF THE UNITED STATES,
London, February 26, 1864.

SIR: Lord Russell was so much engaged yesterday that he could not spare much time for the discussion of any subject. I therefore made my representations as brief as possible.

In regard to the subject referred to in your No. 830, he asked me if I would not leave the copies of the papers with him for consideration. I saw no objection, and therefore assented.

The most important matter of all I brought up in connexion with your No. 835, of the 6th instant. I remarked upon the extraordinary manner in which the question of the Alabama was perpetually breeding new complications. Appos to the question raised by the consul at the Mauritius as to the probable arrival there of a portion of the cargo of the Sea Bride, I took the occasion to express a hope that the British government would before long be induced to adopt some stringent measures upon the proceedings of that vessel in the ports of the British dependencies. It seemed as if the officers and people in those distant places considered themselves as having the right to apply the principles of neutral law with the utmost latitude of which they were susceptible to aid these operations. His lordship observed that the matter had been under the careful consideration of the law officers, who found the questions that arose of some novelty,

as well as difficulty. They hope, however, to mature something before long—he could not at this moment say what. I then alluded to the proceedings at Cape Town and Simon's bay as having given me much encouragement, especially the detention of the *Tuscaloosa*. He replied that on that point the law officers had come to a different conclusion, so that the *Tuscaloosa* would not be detained. He had addressed a despatch to Lord Lyons instructing him to explain this to the government at Washington. In that case, I remarked, that I should say no more about this subject.

I next proceeded to say, that, judging from the arguments in one of the late articles of the writer who signs himself "Historicus," in the Times, and from some hints which had been reported to me by Mr. Evarts as having fallen from eminent counsel here, I had reason to believe that the propriety of having ever admitted the Alabama at all into British ports was now much questioned. It had been objected, on the other hand, that no remonstrance based upon such an idea had ever been made to the British by the American government. In respect to this I felt it my duty to observe, that, however acceptable such a step as her exclusion would have been at any time, the reason why it had not been pressed was, that by the act of consenting to receive the Alabama in Kingston, in Jamaica, after her action with the *Hatteras*, and permitting her to refit and supply herself at that port, we had considered the British government as having given her a positive recognition, and having assumed the responsibility for the consequences of that sanction. From that time it had never occurred to me that a persistence in a contrary line of argument could be just or proper on our part. But if I could be permitted to understand that there was any inclination to reconsider the proceeding, or that any action on the part of my government would be likely to lead the way to an opposite decision, I knew nothing that it would give them and myself more satisfaction to undertake.

His lordship said that I was right in my construction of the course taken in the reception of the vessel at Kingston. It was adopted after deliberation, under the belief that she had been commissioned by the confederates. Hence there could be no occasion for any further representations. There was no change in their position on that subject.

Furthermore I added, were it a fact that the British government contemplated the adoption of a more rigid rule toward the Alabama, it seemed to me much better to await the event as a spontaneous act, than by any effort at interposition to entail upon it a possible interpretation of concession to a demand. His lordship assented to this at once. All that was left me to say in addition was, that after hearing out of doors what I had done, it seemed absolutely essential to preclude any inference that might be drawn in favor of abstaining from action of the kind suggested, purely because no emergency for it had been exerted on the side of my government.

Want of time prevented me from developing my views of the expediency of some movement or other before long, in order to preserve the kindly relations between the two countries. I could only turn to your despatch No. 837, of the 8th instant, and read to his lordship those paragraphs of it relating to the reciprocity treaty. His lordship said that he had received from Lord Lyons much information on that subject. He well understood the situation of the American government, and its disinclination to disturb the treaty. He could say no more than that he regretted such a consequence, at the same time that he saw no present way of avoiding it. He alluded to the debate in the House of Commons on Tuesday evening as an evidence of what they were doing, and spoke of a consul, just returned from Richmond, who reported a great amount of indignation there because the iron-clads had been seized. Thus it was that both sides complained of their neutrality. * * * *

I very hastily referred to your despatch No. 839, of the 8th February, and spoke of your satisfaction with the report made by Mr. Burlingame, of the

course of Sir Frederick Bruce in China. His lordship, on his part, said that Sir Frederick had spoken very favorably of Mr. Burlingame's conciliatory spirit and effective labors. I alluded also to the provision made against the conversion of the English gunboats to the use of the rebels, by placing them under the control of the government.

I then took my leave, at the same time observing that I hoped to find another time, when his lordship would be more at leisure, to renew my efforts to persuade him to the adoption of more positive measures, on the strength of which my government would be enabled completely to quiet the popular uneasiness at home. I thought this the more necessary, as the prospect grew clearer to me of an early settlement of our difficulties. His lordship was evidently incredulous, though he made little response.

I have the honor to be, sir, your obedient servant.

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD, &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 856.]

DEPARTMENT OF STATE,

Washington, February 29, 1864.

SIR: I am again in possession of interesting despatches from Europe, which arrived too late to allow of special acknowledgment by the outgoing steamer.

The military situation is gaining interest. The first success of the expedition to Florida has been followed by a painful reverse. Our information is imperfect, but we have reasons for hoping that the ground that has been gained in that State will not be lost.

The newspapers give you reliable intelligence of the movements in Tennessee and Georgia. It is not doubted that Longstreet is retiring from the position he has held in the front of Knoxville. We are waiting with much interest the results of General Sherman's movement in Alabama. Our earliest information concerning him is expected through insurrectionary channels.

Our naval preparations have been impeded by our inability to enlist men as rapidly as the increase of vessels required. The attractions of the military service drew all volunteers into the land forces. Congress has applied a remedy, and the inconvenience is expected to cease.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

C. F. ADAMS, Esq., &c., &c., &c.

[Same to Mr. Dayton, No. 494.]

Mr. Seward to Mr. Adams.

No. 857.]

DEPARTMENT OF STATE,

Washington, February 29, 1864.

SIR: I transmit herewith, for your information, a copy of an instruction to Mr. Dayton, of the 25th instant, No. 487, in regard to the newspaper report of S. R. Mallory, the pretended secretary of the navy of the insurgents, recently sent to you.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

C. F. ADAMS, Esq., &c., &c., &c.

[See instructions to Mr. Dayton for enclosure.]

Mr. Seward to Mr. Adams.

No. 860.]

DEPARTMENT OF STATE,

Washington, March 2, 1864.

SIR: I recur to your despatch No. 595. There is neither any occasion nor disposition here to question the wisdom or propriety of your proceedings in regard to my despatch of July 11. Events justified your sagacity in reserving it. On the other hand, no considerations which now occur to me could have excused this department for withholding the instruction from Congress and the public.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

C. F. ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 861.]

DEPARTMENT OF STATE,

Washington, March 3, 1864.

SIR: I have the honor to acknowledge the receipt of your despatch of the 12th of February, (No. 596,) together with a copy of the note which, on the 8th of that month, Earl Russell addressed to you on the subject of naval preparations and movements in the interest of American insurgents in the ports of Great Britain. I have already informed you that Mr. Maury's denial of the authenticity of the report signed by Mr. Mallory, is not here deemed sufficient to discredit that publication.

Earl Russell's remarks upon the questions he discusses are conceived in a friendly spirit, and we infer from them a purpose to maintain the neutrality laws of Great Britain. Recent proceedings of provincial authorities in Canada, Nova Scotia, and the Cape of Good Hope have manifested the same just determination. I have considered with profound regret his lordship's remarks upon the necessity which, as he supposes, rests upon her Majesty's government to regard our insurgents as a belligerent; but I must be allowed to say, that had a different course been pursued, many inconveniences now felt would have been prevented, and that only the persistence of her Majesty's government in that course hinders and delays the restoration of our relations to a state of mutual friendship, which would be honorable and useful to both countries, and would gratify the friends of peace and humanity throughout the world.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

C. F. ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

[Extract.]

No. 607.]

LEGATION OF THE UNITED STATES.

London, March 3, 1864.

SIR: I have to acknowledge the reception of despatches from the department numbered from 841 to 846, inclusive.

In respect to No. 843, of the 13th of the same month, I transmit herewith a

copy of the Times, of yesterday, containing a report of the debate in the House of Lords, in which the complaint about the Kearsarge was introduced by Lord Clanricarde. I infer from Lord Russell's reply that the letter of Commander Winslow was construed as putting an end to it.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

[From the Times, of March 2, 1864.]

FEDERAL RECRUITING IN IRELAND.

The Marquis of CLANRICARDE, in rising according to notice to move for copies of any reports which might have been received by her Majesty's government on this subject, said the enlistment of soldiers on the part of a foreign state in this country involved a question of very considerable importance. It had, indeed, been always held that one power could scarcely commit a greater infraction of the rights of another, or a greater breach of comity and international law, than by attempting to recruit for its own service citizens who owed allegiance to that power. In Ireland, in former times, the law upon the subject was very strict, as the offence of enlisting in a foreign service was punished with death, and three men were, in point of fact, executed in that country in 1749 because they had enlisted in the French service, though we were then at peace with the French people. The severity with which the offence used to be visited was, however, very properly relaxed in 1819. The foreign enlistment act was passed, and a milder law, in accordance with the spirit of the present day, introduced. Having said thus much, he would shortly proceed to advert to the fact that recruiting for the federal States had notoriously been carried on in Ireland with very little check during the last two years, and without, so far as he was aware, any notice having been taken of those proceedings by her Majesty's government. He should therefore like to know whether any remonstrances had been made on the subject to the United States, and whether any steps had been seriously taken to put an end to a state of things with which, as far as he could form an opinion, the common law ought to be found sufficient to deal. He was not, in order to prove the existence of that state of things, going to quote newspapers or letters, relying, as he did, so entirely on the notoriety of the facts that he should be surprised if any member of the government should rise in his place and contradict the assertion that agents of the federal government had been indirectly engaged in recruiting in Ireland. Now, he had no very high opinion of the efficiency of the Irish government in its present form as a machinery for executive administration, believing, as he did, the lord lieutenantcy, with all its paraphernalia, to be a somewhat obsolete office. [Hear, hear.] But it was, he thought, impossible that the Irish constabulary, who were, as a body, honest and intelligent, and who endeavored to do their duty as well as they could, should not have made some reports on the subject to which he was adverting to the heads of the Irish government, and that they, in their turn, should not have made similar reports to the authorities at this side of the water. It was impossible, therefore, that the noble lord, the secretary for foreign affairs, could be in ignorance on the matter, especially when there was scarcely a newspaper published in Ireland or in London in which some allusion had not, within the last year or two, been frequently made to recruiting for the federal army as having been carried on in Louth, Tipperary, Cork, Carlow, Dublin, and other counties. Indeed, the noble lord himself had adverted to the subject casually in his communications with the American minister at the English court,

in which he stated, as appeared from the papers which had been published, and most truly, that if a balance were struck of the assistance given by British subjects and by the supply of the munitions of war to the contending parties in America, that balance would be found to be greatly in favor of the federal States. If, he might add, he wanted further evidence as to the existence of recruiting in Ireland for those States, he might find it in the returns of the immigration commissioners, who had, he understood, ascertained it to be an undoubted fact that the emigration of single young men to the United States from that part of the kingdom had very much increased in the year 1863-'64 as compared with the previous year. Now, that was a very significant fact, particularly when it was borne in mind that that increased emigration reached, as he believed it did, to the extent of some thousands, and that the probability was it could only be due to the operation of the American war. He would, however, in the support of the case which he was endeavoring to make, mention one specific fact which had come under his own immediate observation. Not quite two months ago a man arrived at a central station in the county of Galway, and at once proceeded to make it known that he had come to engage some hundreds of men and to take them across the Atlantic, tempting them by the offer of good pay. He made known his business to the publicans in the town where he first stopped, and went on to another town and did the same thing, promising so much per head for every person whom they succeeded in engaging for him. He alleged that he was engaging laborers for the purpose of making two railways and a canal—the railways in the south, and southwest, and the canal in the west from New York. But it was perfectly well known that they were to be engaged as soldiers, and that the situation of the supposed works would enable him to send them in whatever direction he pleased. The police very properly interfered, and he was the magistrate before whom the man was brought. His whole history was perfectly well known. He was a native of a village not many miles from the town where he was stopped. He had been a soldier in the American army, and, having been wounded, was sent to Ireland. He produced papers authorizing him to enrol any number of laborers for these works, and was very anxious to assume the character of an American citizen. It was a remarkable thing that he had no more money about him than was sufficient for his personal expenses, and when asked to explain how, with such means, he was to pay the laborers and the publicans for their aid, he referred not to any great railway contractor or engineer, or other person generally found to be in connexion with such schemes, but to the American consul. The American consul at Liverpool gave him, he said, a letter to the American consul at Dublin, and if they were written to it would be found that he was solvent and well able to discharge all his engagements. The man was a little astonished when he told him that he should not admit his American pretensions; that he knew him to be an Irishman, and should treat him the same as any Irishman who had never left his native village, and that the reference to the American authorities would not avail him one jot. It was transparent that it was intended to infringe our law. But how did the Americans act towards us in 1855? The whole of the papers had been laid before Parliament, and it appeared that at that time our consul at New York reported that a number of laborers out of employment, who were British subjects, had applied for means to go home, with the view of enlisting in the army or navy of their own country. Sir John Crampton, then Mr. Crampton, thought it right to take the opinion of an American lawyer upon the words of the American law, making it an offence to hire or return any laborer for any employment or under any pretence to go beyond the jurisdiction of the States, in order that when there such person might possibly be enlisted. In the opinion obtained a case was quoted in which the Supreme Court had held that the words "hire or retain" were susceptible of a very broad interpretation, and the lawyer stated that he was inclined to think

they would be held to reach every case of payment for the removal of a person from the States. The American government withdrew the *exequaturs* of the consuls, and insisted on the removal of Mr. Crampton, upon the ground of that law having been infringed. They would not allow us to send home our own men, because it might be inferred that when here, if they had no other employment, they would enlist; but now they were sending emissaries to Ireland to entrap not their own, but our countrymen in their service. [Hear, hear.] There was no analogy between the two cases. We wanted British subjects sent home who were anxious to enlist in our service. The Americans wanted to inveigle and enlist British subjects in Ireland for service in the United States. [Hear, hear.] Perhaps he should be told that the government knew nothing of the case, and that it had never been reported to the Irish government. He regretted that the wholesome practice of the Irish government communicating with men of position in the country had been abandoned, and that they depended entirely on the police for information. The police had acted in this case, and therefore it was for them to have reported it. [Hear.] But he came next to a case as to which he was surprised that no papers had been laid before Parliament, because action had actually been taken on it—the case of the American cruiser, the *Kearsarge*, which came into Cork harbor and began to enlist men under the very nose of our admiral and almost alongside of our flag-ship. That certainly was rather more than could be stood. From the information which had been taken on the subject, it was pretty well known what had happened. It was bruited about that the United States government were giving good bounties for men, and some of the idle seamen about Queenstown went on board. The vessel then sailed off for Brest, and on arriving there the men were put ashore and told that they might return if they liked and take service for three years. However, from some change in the policy of the United States government, the men were returned to Cork, and then the government prosecuted them under the foreign enlistment act, and six of them were now held to bail. He wished to know, however, what proceedings had been taken against the United States government in the matter. [Hear, hear.] It was a paltry thing to go merely against our own men. They were held to bail in 20*l.* each, with one surety of 20*l.* each, so that, if it suited the American government, for 240*l.* they could quash the whole transaction, and we should have no redress for this outrage committed on the dignity of this country by a government which had insisted on the removal of Sir James Crampton, and had withdrawn the *exequatur* of our consuls on a much smaller pretext. [Hear, hear.] It was remarkable that these men were dismissed in the American uniform, and he had heard that American uniforms were to be seen in other parts of Ireland. He was not a believer in the existence of any disaffection in Ireland. Disaffection could not go to any great length without some cause for it, [hear, hear,] and Ireland was, without doubt, the freest country in the world—not even excepting Great Britain. A man was free to say or do there pretty much as he pleased, and the only persons who appeared to be under any restraint were the police. [Laughter.] All men of education and intelligence put a proper value on this freedom; but, unfortunately, among the lower orders there did prevail some mischievous old traditions. They were always delighted with the idea of secret societies, and many of these secret societies were productive of great harm. Some of them might be innocent and harmless, but it was neither innocent nor harmless to spread among the people the notion of a connexion with the United States or to permit the distribution of American uniforms. These things ought to be dealt with in a strong tone, not towards our own people so much as towards the government which ventured to take such liberties. [Hear, hear.] He had no hesitation in saying that if the confederates had done one-tenth of what the federals had done, it would have been put a stop to long ago. [Hear, hear.] But the neutrality of her Majesty's government had been from the first a partial

neutrality, and in that respect they had not properly maintained the honor of the country. [Hear, hear.] But what he wanted to know now was whether the house might be allowed to see the reports which, no doubt, the Irish government must have forwarded on the subject, and the remonstrances which he trusted the secretary of state had addressed to the government of the United States on the subject. [Hear.] The noble marquis concluded by moving for copies of any reports that might have been received by her Majesty's government respecting recruiting in Ireland for the North American army.

Earl RUSSELL. My noble friend will excuse me if I do not advert to many of the topics on which he has touched, and deal only with his tangible points. I don't think it necessary to enter into the reasons why I was in favor of the repeal of the foreign enlistment act in 1823, nor shall I discuss whether the office of lord lieutenant of Ireland is useful or not, or whether the conduct of the American government in 1855 was proper or not. As far as I can understand the drift of my noble friend, he argues that because the American government acted improperly in 1855, therefore we ought to act improperly now. ["Oh, oh."] The real question which my noble friend has brought forward is that of foreign enlistment in Ireland. I quite admit that it is an offence against the law and against the amity which the American government is bound to show towards her Majesty's government. Wherever such an offence can be proved, it ought to be prosecuted by her Majesty's government, and it certainly furnishes a subject of complaint against the United States government if it has authorized it. My noble friend has said truly enough that we have complained from time to time that there was a process of recruiting going on in Ireland on behalf of the American government. Last year I presented papers—correspondence between Mr. Adams and myself—on the subject of British subjects in the federal armies, and those who have read that correspondence may remember that our complaints were of a general nature, because we had not evidence of particular cases in which the offence was brought home to American agents. Mr. Adams on each occasion denied the truth of these allegations, and on one occasion he said that until I had brought it to his notice he did not think there was anybody in this country who could have believed it possible that agents of the United States government were employed in enlisting British subjects for the federal armies. With that general allegation, and with that general denial, I could only wait until there was a case in which particular evidence could be produced. In the month of January of this year a person named Pike stated that a person named Finney had gone about engaging men to enlist. It was stated that this Finney had invited men to go out and get good wages in the United States, and afterwards said that they would get much larger sums of money if they would enlist as soldiers in the United States army. The matter was investigated, and no evidence except that of this person named Pike could be had; and it was alleged that he had been engaged by Finney as an assistant, but had not received the reward which he thought sufficient, and that, being excited by that circumstance, he invented this story of the recruiting. It was further alleged that the real object of Finney was to engage men to be employed on railways in the United States. The law officers of the crown in Ireland investigated the matter, and they were of opinion that if there was no other evidence but that of Pike against this man, that evidence would not be believed, and that consequently there was no chance of a conviction in a court of law. When they gave that opinion, the Home Office here arrived at the conclusion that it was not desirable to institute a prosecution. [Hear, hear.] It must be borne in mind that the United States minister has said, and said with perfect truth, that owing to the great number of men employed in the federal army, and owing to the great progress which railway works are making in the United States, there are many railway companies in America which are anxious to obtain men, and ready to pay them high wages. The Chicago Rail-

way Company is known to have hired men for the purpose of working on their lines; and we have information that this person, named Finney, hired a room in Dublin a few days ago, and there engaged young men who are going, or are gone, to the United States. My noble friend must perceive that even although it could be proved that many of those young men are arriving in New York, tempted by the large bounty offered to them, many enter the army of the United States; yet if they go from this country without any contract to enter the army—if they go for the purpose of obtaining good employment and good wages, and wait till their arrival in New York to decide whether they will be railway laborers or soldiers, there can be no ground for a prosecution under the foreign enlistment act. [Hear, hear.] My noble friend has told us in the most circumstantial manner of a person known to have been engaged, according to his opinion, in the horrid plot of taking men in contravention of the foreign enlistment act, to be employed in the army of the United States. One would have expected that a person with the activity, the patriotism, and the knowledge of law possessed by my noble friend, would have been able to pursue this man to conviction; but there the story ended, my noble friend saying there was no evidence. [Hear, hear.] I have heard of a man in the county or the city of Cork, who was said to have engaged laborers on the promise of a large amount of wages or a large amount of pay; but it appears that he began by asking the persons who were to enter into the contract with him for threepence each, and when he had collected a sufficient number of threepences, he and his comrades went off. [A laugh.] That was not a transaction from which the United States gained much. Another case alluded to by my noble friend was that of a man-of-war at Queenstown. Undoubtedly there were a number of men found on board the Kearsarge, a United States man-of-war, who were said to have been engaged as seamen and to have been carried off. On hearing this report I at once wrote a complaint to the minister of the United States in London, telling him that I had heard the consul of the United States had been instrumental in enlisting these men, and expressing a hope that a thorough inquiry would be made. The minister of the United States wrote to say that, so far as the consul was concerned, he denied all knowledge of such transaction, and his excellency furnished me with a copy of a letter from the captain of the Kearsarge, which is as follows:

“UNITED STATES STEAMER KEARSARGE,
At sea, December 7.

“SIR: A party of men, either by connivance of the crew or otherwise, were concealed on board this vessel on the night of her departure from Queenstown, the 5th ult. These men, I learn, were in expectation of being enlisted in the service of the United States after the Kearsarge had proceeded to sea, but found their mistake. [An ironical laugh from the opposition.] To have turned them ashore at Brest would have been to open to them the temptation to enlist on board the Florida. I therefore determined to leave them at Queenstown as soon as it was practicable. You will please notify Admiral Jones that I informed him that no enlistments would be made at Queenstown. I have, therefore, sent on shore this party, that no charge of subterfuge may be alleged in the premises.

Very respectfully, your obedient servant,

“JNO. A. WINSLOW, *Captain.*

“E. G. EASTMAN, ESQ.,
United States Consul, Queenstown.”

I do not know that the captain could have behaved otherwise than he did. When we found that these men had been enlisted, her Majesty's government consulted the law advisers of the crown, and they directed that a prosecution should be instituted, and, as far as I know, the prosecution is going on. [Hear,

hear.] A suspicion may arise that the captain was aware that these persons had been enlisted before they went on board, [ironical laughter from the opposition,] but all I can say is that the captain gives the explanation which I have read for your lordships. These are the cases which have occurred in the present year. I quite agree with my noble friend that every case of this kind ought to be watched, and the police in Ireland and the government of Ireland are ready to watch them. [Hear, hear.] I also quite agree with my noble friend that no violation of the foreign enlistment act ought to be permitted without a prosecution, if there is evidence to sustain one; and on that principle her Majesty's government have determined to act. [Hear, hear.] My noble friend has said what he has never been able to prove—that the neutrality of her Majesty's government has not been an impartial neutrality. Well, the United States government are of opinion that from the very beginning her Majesty's government have taken a side favorable to the Confederate States, and that allowing the latter belligerent rights—which they say induced other nations of Europe to allow them the same rights—was very partial conduct, because it was very favorable to the insurgents. I have always contended against that pretension. We considered that as the Confederate States comprised so many of the States of North America, were inhabited by so large a population, and contained so much of the wealth that had existed in the United States, our decision was not a partial but a perfectly impartial decision, founded on the fact that the Confederate States were entitled to belligerent rights. [Hear, hear.] No doubt it may be said, and it has been said, that this advantage has enabled them to derive very considerable supplies, and so enabled them to carry on the war against the federal States. On the other hand, the Confederate States made their complaint with respect to the conduct of her Majesty's government, whom they have all along conceived to be partial as against them. I must say that though they are entitled to impartial conduct, they are not entitled to any other conduct at our hands, because, though recruiting for the Confederate States does not take place in this country as far we are aware, conscription does take place as regards British subjects residing in the southern States. When we have endeavored to obtain redress for this, we have found that the consuls, who were appointed when all the American States were united, have on a sudden been driven from the Confederate States, and there is no one there who can take up the case of British subjects, who are very frequently forced into the confederate ranks against their own will. This and other hardships are inflicted upon British subjects in the Confederate States, and from the loss of consuls they are not able to make complaints and obtain the redress to which they are entitled. [Hear.] But, my lords, with regard to the whole matter of this war, it has been the determination of her Majesty's government to pursue an impartial neutrality. That course has been steadily pursued. I see no reason myself for our taking part either with the northern States or with the southern; and we are determined to continue to maintain a course of impartial neutrality. [Cheers.]

The Earl of DONOUGHMORE said the fact that agents of the American government had for a considerable period been attempting to entice the Irish subjects of her Majesty into the military service of the United States was notorious and the noble earl had not repudiated the statement. Let their lordships compare the conduct of the government in this matter with the course taken by them in the matter of the Birkenhead rams. The noble earl said that in no case did there appear to be any prospect that the government would be able to prosecute these recruiters to conviction, and that, in the opinion of the Irish law officers, there was no evidence to go upon. But when, on the 3d of September, last the noble earl ordered the rams to be detained, had he the opinion of the law officers of the crown here that there was evidence sufficient to justify their detention? [Hear, hear.] If not, his course of action in the one case

was founded on principles differing entirely from those he had adopted in the other. Yet this was what the noble earl called impartial neutrality! What his motives were he could not tell. He would not say that the noble earl refused to watch over and protect these poor people who were thus tempted from their native soil to fight in a quarrel not their own, out of partiality for the government of the north. The noble earl denied this imputation. Was it, then, because the government cared nothing for these poor Irish people, whereas, if the same attempt had been made to enlist Englishmen, the authority of the government would very quickly have been exercised to protect them? In Ireland there was a society called the Fenian Brotherhood, which had so often been mentioned in connexion with this subject that he wished to ask the government whether their attention had been directed to its proceedings. What "Fenian" meant he had not the least notion; but the object of the association had been distinctly published. That object was to recruit in Ireland for the American army, and to keep up a spirit of disaffection in Ireland, while the vague hope was expressed that when the American contest was at an end the troops now employed against the south would turn their victorious arms against England. These schemes were so contemptible that it might be absurd to discuss them seriously. No man of sense could apprehend any real danger from these proceedings. But the "let it alone" principle, on which the government had acted, was here a false principle. Their plan seemed to be to let sedition have its full swing until at last it became too inconvenient, and then they would have to put it down. Now, he agreed with the ministry in thinking that as long as sedition was confined to mere talk and to ridiculous articles in newspapers it had, perhaps, better be left alone. But when men were enlisted in the service of a foreign government, were drilled, and received a military education, then he thought, not so much in the interest of the state as in mercy to these deluded people, the government ought to interfere. [Hear.] He wished to know whether, within the last four or five months, the government had not received continual reports from the police respecting the proceedings of the Fenian Society in Ireland, especially in Dublin, Cork, and in the larger towns, and whether it did not appear from those reports that there had been an extensive enrolment and drilling of these persons by men, some of whom wore the American uniform. [Hear, hear.] If, as he believed, information of this kind had reached the government, it was time to act in order to repress a movement which, though it was now ridiculous, and might be shivered to fragments by the smallest exertion of power, might one day require to be put down with a high hand. [Hear.] "Let it alone" was the favorite expression of a former colleague of the noble earl; and in politics it was often a very good principle, which the foreign secretary would do well to study and adhere to. But when you had to deal with sedition taking the form of armed men, and with the organized enlistment of soldiers within the British dominions, it was time to act, and not rely on such a principle. [Hear, hear.]

Earl GRANVILLE. I have failed entirely to make out, from the speech of the noble earl, any case against my noble friend. Upon the question of neutrality, as your lordships are aware, both the north and the south were constantly bringing accusations against the government for being partial and showing favor to one side or the other. It is quite clear that any person who endeavors to remain neutral between two opponents will be open to such charges, and exactly the same attacks have been made against the government by those who in this country sympathize with one or other of the belligerents. But these accusations are, in fact, the best proof that the government have been actuated by a sincere wish to maintain a fair and impartial position between the two contending parties. [Hear, hear.] The noble lord taunted the government with want of courage in dealing with these enlistments, which he said were now quite notorious. Well, but if they are notorious, why does not the noble earl offer some specific proof of their existence? The government have given to the police instructions of

the most positive nature to make inquiries on this subject. And yet the only cases of which we have knowledge are of the most trumpery character. In one case a man was said to have engaged a clerk and an office for this purpose, but he left without even paying the unfortunate clerk. [A laugh.] Another case attracted great attention on the part of the government. A factor engaged several hundreds of men to work upon an American railway. This was said to be merely a colorable pretext, and the men, we were told, were really recruits for the service of the United States. The government immediately made the most rigid inquiry, and the factor who was charged with this offence came to the office of the chief secretary, and proved there by incontestable documentary evidence that those persons were really engaged to work upon the railway; that the railway company were suffering from a dearth of labor; and that these supposed recruits were engaged *bona fide* to supply this want. Does the noble earl opposite think it would have been proper on the part of the government to have interposed obstacles in the way of a legitimate transaction of that kind? The noble earl alludes to persons who go about wearing the American uniform. I have seen persons wearing the French and Italian and many other different uniforms walking about the streets of the metropolis, but it would never occur to any of your lordships that this was a fact which required the action of the government. What sort of action, then, is it that the noble earl wants? There was only one case which appeared, on inquiry, to bear out the charge of enlistment for the military service of the United States. The government submitted the whole evidence to the law officers of the crown in Ireland, and their distinct advice was that the evidence was not sufficient to lead to a conviction. Now, would it have been courage, or would it have been simplicity, on the part of the government to have disregarded that advice and to have taken the law into their own hands? If the noble lords are of opinion that the government ought to have done more and to have gone further, I really think they ought to have produced some better information than the government possess to show that recruiting is really carried on in Ireland by the United States government. [Hear, hear.]

The Earl of DERBY said his noble friend had failed to answer the question whether the government had received through the police any information that drilling and military exercises were at present taught to persons in Dublin, Cork, and elsewhere, and whether they had taken any steps in consequence of this information.

Earl GRANVILLE could say nothing as to the etymology of the word "Fenian," but the attention of the police had been directed to the military drilling which was said to be going on in Ireland. He could not at that moment give any detailed information on the subject, but this he could say—that the police had come to the same conclusion as that which seemed to have been arrived at by many of their lordships—namely, that the organization was a perfectly contemptible one.

The Marquis of CLANRICARDE, in reply, said he should not press his motion, but he must take notice of a taunt that had been uttered against himself and the noble earl opposite, that, knowing of cases in which there had been breaches of the law, they had not prosecuted the offenders to conviction. Those who applied that taunt were ignorant of the position to which magistrates were reduced in Ireland. The magistrates were not allowed to seek out or to assist in detecting crime. All these functions were monopolized by the police and the stipendiary magistrates, who would afford no information to the unpaid magistrates. He believed that he could have proved that breaches of the foreign enlistment act had been committed, and he had been informed by a brother magistrate that, to his personal knowledge, men had been seduced from the ranks of the county militia and were now serving in the United States army. [Hear.]

The motion was withdrawn.

The house adjourned at 25 minutes to 7.

Mr. Adams to Mr. Seward.

No. 608.]

LEGATION OF THE UNITED STATES,
London, March 3, 1864.

SIR: Under the directions contained in your No. 834, of the 6th of February, I addressed a note to Lord Russell on the subject of the steamer Will-o'-the-Wisp. Copies of that and of his lordship's reply are herewith transmitted.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

*Mr. Adams to Earl Russell.*LEGATION OF THE UNITED STATES,
London, February 22, 1864.

MY LORD: I am directed by my government to represent to your lordship that it has been advised of the early departure from the port of Halifax of the British steamer Will-o'-the-Wisp, in ballast, for the island of Bermuda, on account of the insurgents of the United States, and under the direction of their agents now having harbor at Halifax; furthermore, that, on arriving at Bermuda, this steamer will take in ordnance and stores for the use of the insurgents, and attempt to make her way into Wilmington, all under the direction of emissaries of the insurgents at Bermuda.

It is deeply to be regretted that the efforts pertinaciously made to procrastinate this struggle in America should appear to be exclusively undertaken from the kingdom of her Majesty and its various dependencies. There is evidently an impression widely spread in the latter that all evasions of neutrality not positively flagrant may escape reprehension. I am requested, very respectfully, to suggest to your lordship that the colonial authorities at Bermuda may be apprized of this hostile proceeding, in order that, if deemed advisable, it may be arrested.

I pray your lordship to accept the assurances of the highest consideration with which I have the honor to be, my lord, your most obedient servant,

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c., &c.

*Earl Russell to Mr Adams.*FOREIGN OFFICE, *February 25, 1864.*

SIR: I have the honor to acknowledge the receipt of your letter of the 22^d instant, and to state to you, in reply, that I have requested his grace the Duke of Newcastle to call the attention of the colonial authorities at Halifax and Bermuda to the movements of the steamer Will-o'-the-Wisp.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 609.]

LEGATION OF THE UNITED STATES,

London, March 4, 1864.

SIR: I have the honor to transmit a printed copy of the papers relative to the seizure of the barque Saxon, published by the British government for the use of Parliament.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD, &c., &c., &c.

Correspondence respecting the capture of the Saxon by the United States ship Vanderbilt.

No.	Address.	Date.	Subject.
1863.			
1.	Admiralty.....	Dec. 22	Proceedings of the United States ship Vanderbilt at the cape. Seizure of the Saxon. The mate shot.
2.	Colonial Office.....	Dec. 24	Despatches from the governors of the Cape of Good Hope and St. Helena on the same subject.
1864.			
3.	Messrs. Sinclair, Hamilton & Co.	Jan. 4	Reporting the seizure of the Saxon and of 250 tons of coal at Penguin island by the commander of the Vanderbilt.
4.	To Messrs. Sinclair, Hamilton & Co.	Jan. 6	Receipt of above letter. Case of the Saxon under consideration of her Majesty's government.
1863.			
5.	Consul Archibald	Dec. 23	Arrival of the Saxon at New York in charge of a prize crew.
1864.			
6.	Consul Archibald	Jan. 5	Further respecting the case of the Saxon. Deposition respecting the death of the mate.
7.	To Lord Lyons.....	Jan. 21	Representation to make to the government of the United States with regard to the case of the Saxon.
8.	To Admiralty	Jan. 21	Asking for further information respecting the wool shipped on board the Saxon, and the coal seized by the commander of the Vanderbilt.
9.	Admiralty	Jan. 22	Rear-Admiral Walker called upon to furnish the required information in case of the Saxon.
10.	Admiralty	Jan. 25	Enclosing a despatch from Rear-Admiral Walker respecting Penguin island, and statement of the master and crew of the Saxon respecting the seizure of that vessel and the death of the mate.
11.	Colonial Office.....	Jan. 28	Enclosing despatch from the governor of Cape Colony. Proclamation of Sir G. Grey depositions, and other papers, respecting sovereignty of Penguin island, the cargo of the Saxon, the voyage on which she was engaged, the coal seized by the commander of the Vanderbilt, and the death of the mate.

Correspondence respecting the capture of the Saxon, &c.—Continued.

No.	Address.	Date.	Subject.
12	Messrs. Sinclair, Hamilton & Co.	Jan. 29	Respecting the cargo of the Saxon. Claim on account of the coals seized.
13	To Lord Lyons.....	Jan. 30	Representation to make to government of the United States respecting the death of the mate of the Saxon. Question of the capture under consideration.
14	Messrs. Sinclair, Hamilton & Co.	Feb. 3	Communicating information received by them that Penguin island is British territory.
15	To Colonial Office.....	Feb. 5	Copy of above. What answer to be returned to Messrs. Sinclair.
16	Lord Lyons.....	Jan. 26	Arrival of the Vanderbilt at New York. Note to Mr. Seward asking for an investigation of the circumstances under which the mate of the Saxon was killed.
17.	Colonial Office.....	Feb. 8	Respecting the sovereignty of Penguin island
18.	Messrs. Sinclair, Hamilton & Co.	Feb. 8	Position of the Saxon when captured.
19	To Lord Lyons.....	Feb. 11	Approving note to Mr. Seward in No. 16.
20.	Colonial Office.....	Feb. 12	Further respecting the sovereignty of Penguin island.
21.	To Lord Lyons.....	Feb. 15	Instructions with regard to the capture of the Saxon, the murder of the mate, to whose widow compensation should be given, and the seizure of coals at Penguin island.
22.	Lord Lyons.....	Feb. 1	Note from Mr. Seward; investigation to take place with regard to death of the mate. Despatch from consul Archibald to letter from owners of the Saxon respecting case of that vessel.
23.	Lord Lyons.....	Feb. 5	Steps taken by government of the United States to investigate death of mate of the Saxon.
24.	Messrs. Sinclair, Hamilton & Co.	Feb. 17	Again calling attention to the claim of Messrs. W. Anderson, Saxon & Co., on account of the coals seized by the commander of the Vanderbilt.
25.	To Messrs. Sinclair, Hamilton & Co.	Feb. 20	Nature of the instructions given to Lord Lyons in case of the Saxon.
26.	To Lord Lyons.....	Feb. 20	Instructions with regard to the coals seized by the commander of the Vanderbilt.
27.	To Lord Lyons.....	Feb. 20	Copies of correspondence in case of the Saxon.
28.	To Lord Lyons.....	Feb. 20	Statement of Horace Carrow on case of the Saxon and death of the mate.
29.	To Lord Lyons.....	Feb. 25	Further statement of Carrow, who is about to proceed to New York.



CORRESPONDENCE RESPECTING THE CAPTURE OF THE SAXON BY THE UNITED STATES SHIP VANDERBILT.

No. 1.

The Secretary to the Admiralty to Mr. Hammond.—(Received December 23.)

ADMIRALTY, December 22, 1863.

SIR: I am commanded by my lords commissioners of the admiralty to send you herewith, for the information of Earl Russell, a copy of a letter, dated the 17th ultimo, from Rear-Admiral Sir Baldwin Walker, with its enclosures, reporting the proceedings of the United States ship-of-war. Vanderbilt at the Cape of Good Hope, after her return from the Mauritius, and the seizure by that ship of the colonial vessel Saxon at Angra Pequena.

I am, &c.,

W. G. ROMAINE.

[Enclosure 1 in No. 1.]

Rear-Admiral Sir B. Walker to the Secretary to the Admiralty.

NARCISSUS, IN SIMON'S BAY, November 17, 1863.

SIR: I beg you will inform the lords commissioners of the admiralty that the United States ship-of-war Vanderbilt, after leaving this port on the 11th September last, proceeded to Mauritius, in search, I believe, of the confederate ships Alabama and Georgia. Not finding either of those vessels, she returned to Table bay to coal and provision on the 22d ultimo.

When this vessel first touched at this port, the commander requested to be supplied with coals and provisions, which, on the supposition that he had not received any at a British possession for three months, having it was believed come last from Rio de Janeiro, his demands were complied with. It was subsequently ascertained that the Vanderbilt had touched at St. Helena and received about 400 tons of coal, all that was there.

Under these circumstances, with the fact of her having obtained coal at Mauritius, on the question being raised, I expressed to the governor of this colony my opinion that no further supplies should be given her here, in accordance with the provisions of Earl Russell's letter for the preservation of strict neutrality. The Vanderbilt did not, therefore, receive any coal, and left Table bay on the 27th ultimo, proceeding northward.

On the 6th instant I received a letter from some merchants at Cape Town (a copy of which is enclosed) reporting that the Vanderbilt had met the colonial vessel Atlas and subjected her to very close examination, and as it appeared to be probable that Commander Baldwin would proceed to Ichaboe for the purpose of searching some English vessels there, I despatched the Valorous to that island to prevent anything of the kind, and to acquaint the American captain, if he was not aware of it, that it is a British possession.

The Valorous returned to this port on the 15th instant, reporting (see inclosure No. 2) that the Vanderbilt had visited Angra Pequena, on the west coast of Africa, and having found there the colonial vessel Saxon (lately employed in conveying cattle to Ascension) loading with wool, stated to have been part of the cargo of the Tuscaloosa, disembarked there, (a vessel captured by the Alabama and constituted a tender, but which vessel was not condemned in any prize court, as stated in my letter No. 86 of the 19th August last.) Commander Baldwin seized her, and sent her as a prize to New York, putting the crew into a small English schooner, now on her way to Table Bay. The Valorous did not fall in

with the Vanderbilt, nor had that vessel been at Ichaboe. It was also reported to Captain Forsyth that the mate of the Saxon had been shot, but under what circumstances he could not learn.

It is stated that the Vanderbilt took in 250 tons of coal, said to belong to Messrs. de Pass, Spence & Co., of Cape Town, from an island at Angra Pequena.

I should remark that Angra Pequena lies beyond the colonial territory, but our merchants have been there collecting guano, &c.

The Valorous did not find any vessels whatever at Ichaboe, and therefore returned to this anchorage on the 15th instant.

I have, &c.,

B. W. WALKER.

P. S.—It is stated in the public papers that Penguin island, at Angra Pequena, near which the Saxon is said to have been seized, and whence the coal was taken by the Vanderbilt, is a British possession, and was annexed to the Cape Colony at the same time as Ichaboe, but of this circumstance I am not aware, my instructions being only to take possession of the island of Ichaboe.

[Enclosure 2 in No. 1.]

Captain Forsyth to Rear-Admiral Sir B. Walker.

VALOROUS, AT SIMON'S BAY, November 15, 1863. *

SIR: In compliance with orders contained in your letter of the 7th instant, I put to sea in her Majesty's ship, under my command, at 8.30 p. m. the same evening. On the afternoon of the 10th I arrived at Angra Pequena. Finding no vessels at that anchorage, I despatched boats to the islands in the vicinity, and also to the main land, to make inquiries respecting the movements of the United States war-steamer Vanderbilt. The result was that, from information obtained from four men engaged in collecting guano, she had anchored there on the 30th ultimo, and found the English bark Saxon, belonging to Messrs. Saxon, Anderson & Co., of Cape Town, taking in wool, she immediately seized and took forcible possession of the same. It was alleged as the reason for so doing, that she (the Saxon) had on board wool that had been previously disembarked by the Tuscaloosa, prize to the confederate war-steamer Alabama. The crew of the captured vessel, with the exception of the mate, who was shot, (but under what circumstances I could not ascertain,) was put on board the British schooner Isabel, in order to be forwarded to Cape Town. The Saxon left the 1st instant—it is reported for New York.

Early on the morning of the 11th I proceeded to the island of Ichaboe, and there heard that the Vanderbilt sailed from Angra Pequena on the 2d, after having taken on board coals that were deposited at Penguin island in that harbor, the property of Saxon, Anderson & Co. I was also informed that the Isabel had gone to the northward on the coast completing her cargo, preparatory to her return to Cape Town. From orders precluding my searching further to the northward for the Vanderbilt than Ichaboe island, I made the best of my way to rejoin your flag, and beg to report my arrival here this morning.

I have, &c.,

CHARLES C. FORSYTH.

[Enclosure 3 in No. 1.]

Messrs. Saxon and Co. to Rear-Admiral Sir B. Walker.

CAPE TOWN, November 6, 1863.

SIR: We have the honor to report that the schooner Atlas, belonging to the second undersigned, arrived at this port on the 4th instant; and the master reports that he was boarded a few days previous in sight of the coast by an

armed boat from the United States steamer Vanderbilt, and that he was called upon by the officer in charge and made to show his log-book and papers; after which the vessel's cabin and hold were searched throughout, and the vessel detained a considerable time.

The master of the *Atlas* further reports that the officer in charge inquired respecting the movements of the vessels on the coast, and mentioning the names of two belonging to us that are at present loading guano at the British island of Ichaboe, and stating his intention of subjecting those vessels to the same ordeal and indignities.

We would respectfully solicit your excellency that this is most unusual conduct on the part of a foreign vessel of war on a colonial coast, and as this is calculated very seriously to interfere with British commerce, we would solicit your taking such steps as to you may be considered best.

We have, &c.,

WM. ANDERSON, SAXON & CO.
DE PASS, SPENCE & CO.,
Pro R. Granger & Co.
G. N. EBDEN.

No. 2.

Mr. Elliot to Mr. Hammond. — (Received December 24.)

DOWNING STREET, December 24, 1863.

SIR: I am directed by the Duke of Newcastle to transmit to you, for the consideration of Earl Russell, copies of two despatches from the governor of the Cape of Good Hope, with a copy of another from the governor of St. Helena, respecting the movements and proceedings of the United States sloop-of-war *Vanderbilt*.

By two of these despatches it will be seen that there is ground to apprehend that this sloop has seized a British vessel unlawfully. The next despatches from the Cape may be expected to bring fuller particulars and more direct evidence, but in the meanwhile the Duke of Newcastle loses no time in putting Earl Russell in possession of so much information as has yet been received on the subject.

I am, &c.,

T. FREDK. ELLIOT.

[Enclosure 1 in No. 2.]

Sir P. Wodehouse to the Duke of Newcastle.

GOVERNMENT HOUSE, CAPE TOWN, October 26, 1863

MY LORD DUKE: I have the honor to report to your grace that the United States war-steamer *Vanderbilt* has again visited this colony.

On her arrival in Table bay, the commander landed and delivered to me a letter, in which he represented himself to be in want of coals and repairs. On my objecting, with regard to the former, that three months had not elapsed since he had taken in a supply at Simon's bay, he urged, that under her Majesty's instructions the governor of a colony possessed the power to grant "special permission," as an exception to the general regulations on the subject, and he added, that it was within his own knowledge that the confederate steamer *Georgia* had called at Barbadoes twenty-seven days after coaling at the Bahamas; that the *Florida* had at Bermuda taken in coals sufficient for a month, when three days

would have taken her to a confederate port, and that he himself had lately been allowed to coal at the Mauritius, although the governor was aware of his having coaled at Simon's bay. I informed him that I would send an answer to his application on the following day, and accordingly, after duly considering all the circumstances of the case, I directed the colonial secretary to acquaint him that I did not feel at liberty, under all the circumstances of the case, to grant "special permission" for the shipment of the coals.

I enclose copies of the correspondence, and trust your grace will approve of the decision.

I have, &c.

P. E. WODEHOUSE.

[Enclosure 2 in No. 2.]

Commander Baldwin, U. S. N., to Sir P. Wodehouse.

VANDERBILT, CAPE TOWN, *October 22, 1863.*

SIR: I have the honor to make known to your excellency the arrival here of this ship.

I have come to this harbor for the purpose of making some necessary repairs to my machinery, and also to get a supply of fuel.

I therefore ask your excellency's permission to lie here for the above-mentioned purposes the necessary time, say, from four to six working days.

I have, &c.,

CHAS. K. BALDWIN.

[Enclosure 3 in No. 2.]

The Colonial Secretary to Commander Baldwin, U. S. N.

COLONIAL OFFICE, *October 23, 1863.*

SIR: I am directed by the governor to acquaint you that he has given his best consideration to the letter which he had the honor of receiving from you yesterday, as well as to the verbal representations you made to him relative to the issue of coals to American vessels-of-war by the "special permission" of the governors of other British colonies, as an exception to general directions of the British government on the subject.

Looking to the stringent nature of the instructions he has received, the governor entertains some doubt whether the authority to grant "special permission" be really vested in himself. But he considers that there are special circumstances affecting the ship under your command sufficient in themselves to guide him in dealing with your application.

It has been the unvarying desire of her Majesty's government to abstain, as far as practicable, from affording to either of the parties engaged in the American civil war assistance in the prosecution of hostilities towards each other; and accordingly, in regulating the issue of coals at British ports to their ships-of-war, the object has manifestly been to restrict those issues to the supplies needed for carrying them to some defined destination in foreign parts, or from some foreign port to their own country, and not to facilitate their cruising for an indefinite period for purposes of the war.

Applying this principle to the case of the Vanderbilt, the governor finds that on her way from South America to the Cape she coaled at the British colony of St. Helena; that shortly after that she coaled again at Simon's bay, and that after remaining in the neighborhood of our ports for a time, she proceeded to Mauritius, where she coaled again, and then returned to this colony, Google

It is also matter of notoriety that the object of her movements has been to intercept the confederate cruisers which have lately visited our shores. Under these circumstances, with the information now before him, the governor believes that he would be acting in opposition to the spirit of her Majesty's instructions if he were to grant "special permission" for the issue of coals within the limited term of three months.

His excellency has no objection to offer to your remaining in port for the time required for the completion of indispensable repairs.

I have, &c.,

RAWSON W. RAWSON.

[Enclosure 4 in No. 2.]

Sir P. Wodehouse to the Duke of Newcastle.

GOVERNMENT HOUSE, CAPE TOWN, *November 20, 1863.*

MY LORD DUKE: With reference to my recent despatches respecting the federal and confederate war-steamers Vanderbilt and Alabama, I have the honor to forward communications received from the naval commander-in-chief of this station, from which your grace will learn that acts of very questionable legality have been committed by the federal steamer Vanderbilt.

As the crew of the captured vessel have not yet reached Cape Town, I am not in a position to supply your grace with more precise information by this mail.

I have, &c.,

P. E. WODEHOUSE.

[Enclosure 5 in No. 2.]

Rear-Admiral Sir B. Walker to Sir P. Wodehouse.

NARCISSUS, SIMONS BAY, *November 15, 1863.*

SIR: I beg to forward, for your excellency's information, the copy of a letter I have received from Captain Forsyth, of her Majesty's ship Valorous, who has this morning returned to this anchorage from Ichaboe, reporting the capture of the colonial vessel Saxon, by the United States ship-of-war Vanderbilt, at Angra Pequena, on the 30th ultimo.

I have, &c.

B. W. WALKER.

For enclosure 6 in No. 2, Captain Forsyth to Rear-Admiral Sir B. Walker, November 15, 1863, see enclosure 2 in No. 1.

[Enclosure 7 in No. 2.]

[Sir C. Elliot to the Duke of Newcastle.]

ST. HELENA, *November 17, 1863.*

MY LORD DUKE: The United States sloop Vanderbilt called off this port on the 10th instant, but did not anchor. Commander Baldwin was so good as to send me a few newspapers, from which I collect that he had come on from the Cape of Good Hope, after having been as far to the eastward as the Mauritius. The Vanderbilt left this place, steering about west-northwest.

2. I learn from an officer who visited the Vanderbilt that it was said on board she had called at Angra Pequena bay, and captured there, or in that neighborhood, the British bark Saxon, belonging, as I am informed, to a firm at Cape Town. It was said that this bark had on board part of the cargo of the American bark Sea Bride, taken a few months since by the Alabama, and armed, as I am informed, from that vessel, either as a tender to the confederate ship, or under a commission, said to be issued by the Commander of the Alabama. It has also been stated here that the Vanderbilt found and appropriated a considerable quantity of coal at Angra Pequena, intended for the Alabama; whether water-borne or on shore I cannot say.

3. Your grace will probably have correct particulars of the case direct from the Cape, but I have thought it right to mention what has reached me upon the subject.

I have, &c.

CHARLES ELLIOT.

No. 3.

Messrs. Sinclair, Hamilton & Co. to Earl Russell, (Received January 5.)

11 ST. HELEN'S PLACE, LONDON, *January 4, 1864.*

MY LORD: We have the honor to address your lordship as the agents in this country of Messrs. W. Anderson, Saxon & Co., Cape Town, Cape Good Hope, with reference to the seizure by the United States steamer Vanderbilt of the British bark Saxon, belonging to them.

We are informed that that vessel has been sent to New York in charge of a prize crew. The original crew are, we believe, now at Cape Town, except the chief mate, who is said to have been killed, but as the crew had not arrived at the date of the last advices, we must await arrival of the next mail before we can lay before your lordship the depositions of the master and crew of the Saxon.

We presume your lordship is already in possession of the information collected by the commander of her Majesty's ship Valorous. Our information is, that the Saxon was seized while at anchor, as we believe, in British waters. The ground of the seizure is alleged to be, that the Saxon had on board cargo that had been landed by the confederate vessels-of-war, and had been taken from federal prizes. We have no detailed information on this subject; but assuming the fact to be as stated, we are advised that it would form no ground for the seizure of the ship.

We have further to inform your lordship that Messrs. W. Anderson, Saxon & Co. had stored, on Penguin island, British territory, 250 tons of coals, which are reported to have been either seized or destroyed by the commander of the Vanderbilt. For the present we shall abstain from remarking further on this proceeding until we receive direct evidence of the facts; but in the mean time we have to beg that your lordship will cause such steps to be taken as may be necessary for the protection of our friends Messrs. Anderson, Saxon & Co., whose rights as British subjects have thus been infringed.

We have, &c.,

SINCLAIR, HAMILTON & CO.

No. 4.

Mr. Hammond to Messrs. Sinclair & Co.

FOREIGN OFFICE, *January 6, 1864.*

GENTLEMEN: I am directed by Earl Russell to acknowledge the receipt of

your letter of the 4th instant, respecting the seizure of the bark Saxon by the United States steamer Vanderbilt; and I am to inform you that this case is under the consideration of her Majesty's government.

I am, &c.,

E. HAMMOND.

No. 5.

Consul Archibald to Earl Russell.—(Received January 9.)

NEW YORK, December 23, 1863.

MY LORD: I have the honor to transmit, herewith enclosed, for your lordship's information, a copy of my despatch of this date to Lord Lyons, reporting the arrival at this port of the bark Saxon, in charge of a prize crew.

I have, &c.,

E. M. ARCHIBALD.

[Enclosure 1 in No. 5.]

Consul Archibald to Lord Lyons.

NEW YORK, December 23, 1863.

MY LORD: I have the honor to report to your lordship the arrival at this port, in charge of a prize crew from the United States ship Vanderbilt, of the British bark Saxon, of Cape Town.

The Saxon was captured by the Vanderbilt at Angra Pequena, on the west coast of Africa, on the 29th October last. Her cargo consists principally of wool, and is stated to have been part of the cargo of the American bark Conrad, heretofore captured by the Confederate States ship Alabama. The enclosed slip from the newspapers of this morning contains all the information I have as yet obtained in reference to this capture.

I have, &c.,

E. M. ARCHIBALD.

[Enclosure 2 in No. 5.]

Report of the capture of the Saxon.

THE BARK SAXON, CAPTURED ON THE WEST COAST OF AFRICA BY THE CRUISER VANDERBILT.

The bark Saxon, of Cape Town, Cape of Good Hope, arrived at this port last evening, from Angra Pequena, west coast of Africa, in charge of Acting Master E. S. Keyser, of the United States steamer Vanderbilt. The Saxon was captured by the Vanderbilt on the 28th of October, at the above place, about four hundred miles north of the Cape of Good Hope. She had on board part of the cargo of the bark Conrad, which vessel was captured by the privateer Alabama, and afterwards converted into the privateer Tuscaloosa. The cargo is principally wool.

The Saxon was formerly the American bark Lucy Johnson, of New London, but was wrecked at Table bay, and was subsequently purchased by Messrs. Anderson and Saxon, of Cape Town; she is about 250 tons burden.

The Vanderbilt also found at Penguin island 200 tons of coal, which had been left there for the benefit of the rebel privateers. It was confiscated by the captain of the Vanderbilt. All on board the Vanderbilt are well.

No. 6.

Consul Archibald to Earl Russell.—(Received January 19.)

NEW YORK, January 5, 1864.

MY LORD: Referring to my despatch of the 23d ultimo, reporting the capture and arrival at this port of the bark Saxon, of Cape Town, I now have the honor to transmit, herewith enclosed, for your lordship's information, a copy of my despatch of this date to Lord Lyons, reporting the further proceedings in the case of the Saxon, and enclosing a copy of a deposition made before me by the late second mate of that vessel.

I have, &c.,

E. M. ARCHIBALD.

[Enclosure 1 in No. 6.]

Consul Archibald to Lord Lyons.

NEW YORK, January 5, 1864.

MY LORD: Referring to my despatch of the 23d ultimo, in reference to the capture and arrival at this port of the bark Saxon, of Cape Town, I now have the honor to report that testimony *in preparatorio* has been taken before the prize commissioners, and a libel has been filed, the process on which is returnable on the 19th instant. I have accordingly directed an appearance and claim to be entered in my name, as consul, on behalf of absent owners of vessel and cargo, who appear to have no agent or correspondent at this port, in order to prevent a judgment by default, and to gain time for their defence, and for proof in support of their claims.

Of the crew of the Saxon the captors brought over the second mate, named David Aitchison, and the cook, named William Johnson. I was yesterday enabled to obtain the deposition of the second mate in relation to the circumstances connected with the capture of the Saxon, and more especially respecting the shooting of the chief mate, James Gray, by a Mr. Donohoe, an officer of the Vanderbilt, who was at the time on duty on board the Saxon.

The second mate, Aitchison, is a very intelligent young man, and from the statements in his deposition, a copy of which I have the honor to transmit, herewith enclosed, for your lordship's information, the shooting of the mate Gray appears to have been an act of wilful murder. I presume that a report of the facts of the case will, before this time, have reached her Majesty's government from Cape Town. The second mate has shipped at this port on board the bark Cleveland, a British vessel which sailed from hence yesterday, bound for London, where he can be had for further examination, if requisite. I have been unable to obtain the name and address of the consignees in London of the Cleveland. The name and address of the owner is Solomon Mcase, North Shields.

I have not as yet been able to procure the attendance before me of William Johnson, the cook of the Saxon. I am informed, however, by the second mate, that he, the cook, was not a witness of the shooting of the mate by the officer, Donohoe.

I have, &c.,

E. M. ARCHIBALD.

[Enclosure 2 in No. 6.]

*Affidavit of the second mate of the Saxon.*BRITISH CONSULATE, *New York.*

David Aitchison, a native of Dundee, Scotland, mariner, of the age of 29 years, at present at New York, maketh oath, and saith as follows:

On the 23d of August last I shipped at Cape Town on board the bark *Saxon*, of Cape Town, Stephen Sheppard, master, for a voyage to Ascension, Angra Pequena, and Falmouth, for orders. I shipped as second mate; the mate's name was James Gray, a native of Aberdeen, Scotland. We sailed from Cape Town early in September, I do not remember the day, and proceeded to Ascension. We carried cattle and forage, being partly in ballast. We landed the cattle at Ascension, where we remained seven days, and then proceeded to Angra Pequena, on the west coast of Africa, where we arrived about the middle of October. About the 23d of October we began to take in cargo. We were delayed in loading owing to the absence of the agent, Captain Boyce, who had gone down to leeward. We landed 156 bales of wool and hides; 30 of the bales were hides; we were five days in loading. The wool and hides were lying on the shore, and were brought off in a large flat-bottomed boat. On the day that the loading of the *Saxon* was completed, the United States steamship *Vanderbilt* arrived at Angra Pequena, and anchored about a mile or a mile and a half from us. She sent a boat with two officers and a crew on board of the *Saxon*. One of the officers was named Donohoe; he was an acting master's mate. The officer in charge of the boarding party had some conversation with Captain Sheppard, and had the after-hatch taken off, and looked at the cargo. He demanded the ship's papers, which were handed to him by Captain Sheppard, who asked to have them back, as he was loaded and ready for sea. The officer refused to return them, and said he would take them on board the *Vanderbilt*. The officer then returned with the boat's crew to the *Vanderbilt*, taking the papers, and leaving on board the *Saxon* the officer Donohoe above mentioned, in charge of the *Saxon*. We then went to dinner in the cabin of the *Saxon*; that is, Captain Sheppard, the mate James Gray, the officer Donohoe, and myself. Donohoe well knew Gray to be the mate of the bark. Late in the afternoon three boats' crews from the *Vanderbilt* came on board of us, being in all about fifty men, all armed. The men all had a glass of grog on board the *Saxon*, being wet in coming on board. The officer in charge of the whole party was a Lieutenant Keefe; he said his orders were to get the bark under way, and bring her down the lagoon.

By this time the *Vanderbilt* sighted a bark outside, and proceeded to sea after her. The *Saxon* was then got under way, and proceeded a short way down the lagoon and then anchored again. Captain Sheppard asked Mr. Keefe for permission to send on shore some salt beef, pork, and bread for six men, who had been assisting in loading the *Saxon*, until a supply should come for them from Cape Town. Lieutenant Keefe granted permission, and a signal being made for the six men, they came off in their boat. They were men who carried on the business of digging guano, and sealing, and had been for eight months and upwards at that and other neighboring places on the coast, under charge of Captain Boyce. When the men came on board they went to get their provisions out of the cask, under the superintendence of the master and mate of the *Saxon*. There was some little confusion, and Lieutenant Keefe told Captain Sheppard that the men had got enough provisions, and ordered Captain Sheppard and the mate Gray to go into the cabin. Mr. Keefe and the captain proceeded aft together, and went up the steps of the poop, the mate following close after them. The captain went down the companion way into the cabin, and as

the mate went up the steps of the poop, and was going aft towards the companion-way, the officer Donohoe, above mentioned, who was stationed at the break of the poop, called him back, and took hold of him, trying to stop him. A stout man, belonging to the Vanderbilt, who stood behind Donohoe, pushed the mate forward, at the same time that Donohoe also took hold of the mate to push him forward. The mate being thus pushed was falling forward, down the poop steps, when Donohoe fired at him with a revolver, and shot him, the ball entering the mate's head below the right ear. The mate fell on the deck apparently dead. I was standing near the mainmast at the time of the occurrence, and saw all that passed. I was about six or eight yards distant. On seeing Gray fall I immediately went to him and lifted up his head. He never spoke, and must have been dead within half a minute after falling. As I took the mate's head on my knee I heard Donohoe say, "We must obey orders," or "He must obey orders"—I am not sure which. About a minute afterwards he added, "Well, it is an accident, my revolver was cocked." On hearing the report of the revolver Captain Sheppard came running out of the cabin, and saw Gray lying on the deck, and said to me, "Is Gray dead?" I replied, "Yes, sir." He said, "Poor Gray, he has been with me for six years." Lieutenant Keefe, who was standing on the poop, called out, "Is that man dead?" Several of us replied "Yes." He said "Then put him down the after-hold, and put the hatches on." The body was put down there accordingly. When Mr. Donohoe stopped the mate, the mate said he belonged aft, and he wanted to go to his cabin. When the revolver was fired, all the men of the Vanderbilt who were on board drew their cutlasses, which frightened the six men who had come from the shore, and they thereupon rushed over the vessel's side into their boat and went ashore.

The whole of the men from the Vanderbilt remained on board the Saxon all night and until the afternoon of the next day, when the Vanderbilt returned from sea. We had our flag half-mast. A boat was sent from the Saxon on board the Vanderbilt to tell them of the mate's having been shot. On the same evening the corpse was buried on shore. That night the prize crew came on board, consisting of a Captain Keyser and fifteen hands, and the next day the Saxon was got under way, and proceeded to New York. Captain Sheppard and ten of the crew were landed at Angra Pequena. Myself and the cook, William Johnson, a colored man, were brought on to New York. I assisted in working the bark over, under the orders of the prize master. I had charge of a watch. We arrived at New York on the 22d ultimo. I was detained one day on board of the guard-ship, and for two days in the House of Detention, and gave my evidence before the prize commissioners. I told them about the shooting of the mate, but they did not take down my evidence on that point.

DAVID AITCHISON.

Sworn by the said David Aitchison, at the British consulate, New York, this 4th day of January, A. D. 1864, before me.

E. M. ARCHIBALD,
Her Britannic Majesty's Consul.

No. 7.

Earl Russell to Lord Lyons.

FOREIGN OFFICE, *January 21, 1864.*

MY LORD: The fact of the capture of the British vessel Saxon at Angra Pequena, on the coast of Africa, by the United States steamer-of-war Vanderbilt, will have been made known to your lordship by the arrival of that vessel at New

York, in charge of a prize crew. I enclose for your information copies of the papers relating to the transaction which have been transmitted to this office from various quarters.

I should inform you that Angra Pequena is not a possession of the British crown, though situated at no great distance from her Majesty's possessions on that coast.

The law officers have not yet sufficient information before them to enable them to form a definitive opinion on the subject, and you will see by the enclosed copy of a letter which has been addressed by my direction to the admiralty, to the colonial office, and to Messrs. Sinclair, Hamilton & Co., that I am endeavoring to obtain it for them.

In the mean time, however, I have to instruct your lordship to call the attention of the government of the United States to the apparently extraordinary circumstance of the capture, at so great a distance from American waters, of a British colonial vessel, which was certainly not exposed to the suspicion of contemplating any breach of blockade, or, so far as appears, of carrying contraband of war to the enemies of the United States; and your lordship will request the government of the United States either to direct the immediate release of the Saxon, with proper compensation to the owners, or at least to explain the ground on which her seizure and detention are supposed to be justified.

I received the day before yesterday, from Mr. Consul Archibald, a copy of the deposition which has been communicated to your lordship respecting the murder of the mate of the Saxon, at the time of her capture, by one of the officers of the Vanderbilt, and as soon as I have been able to ascertain the view taken by the law officers of the transaction, I shall furnish your lordship with such special instructions on that feature in the case as they may recommend.

I am, &c.,

RUSSELL.

No. 8.

*Mr. Hammond to the Secretary to the Admiralty.**

FOREIGN OFFICE, January 21, 1861.

SIR: I am directed by Earl Russell to request that you will acquaint the lords commissioners of the admiralty that his lordship has been in communication with the law officers of the crown on the subject of the capture, at Angra Pequena, on the coast of Africa, of the British vessel Saxon, by the United States steamer Vanderbilt, to which the attention of this office was called by your letter of the 22d ultimo, 24th ultimo, 4th instant, and by similar communications received from other quarters.

The law officers have, however, stated to Lord Russell that they cannot finally advise his lordship as to the course which should be taken in the matter without having before them a fuller communication of facts; and they desire particularly to be informed when, and by what means, and for what consideration, or under what arrangements, the Saxon became interested or concerned in the shipment or carriage of the wool taken by the Alabama in the Sea Bride,† which had been deposited at Angra Pequena; and whether the coals, stated to have been seized by the Vanderbilt, were, at the time of seizure, on shipboard or on land, and whether they had been conveyed or had been deposited in the place where they were found by the Saxon for any purpose connected with the supply of the Alabama.

* A similar letter was sent to the colonial office and to Messrs. Sinclair, Hamilton & Co.
 † For the Sea Bride, read the Tuscaloosa.

I am to request that you will [*move the lords commissioners of the admiralty to take such steps as they may judge most calculated to] enable his lordship to lay before the law officers the information desired by them on the several points to which I have adverted.

I am, &c.,

E. HAMMOND.

No. 9.

The Secretary to the Admiralty to Mr. Hammond.—(Received January 23.)

ADMIRALTY, January 22, 1864.

SIR: With reference to your letter of yesterday, I am commanded by my lords commissioners of the admiralty to state, for the information of Earl Russell, that Rear-Admiral Sir Baldwin Walker will be called upon to report on the points therein mentioned with regard to the case of the British vessel Saxon, captured at Angra Pequena by the United States steamer Vanderbilt.

My lords would suggest that information on this subject might also be obtained from the governor of the Cape of Good Hope.

I am, &c.,

C. PAGET.

No. 10.

The Secretary to the Admiralty to Mr. Hammond.—(Received January 29.)

ADMIRALTY, January 25, 1864.

SIR: I am commanded by my lords commissioners of the admiralty to send you herewith, for the information of Earl Russell, and with reference to previous correspondence, a copy of a letter, dated the 17th ultimo, from Rear-Admiral Sir Baldwin W. Walker, Bart., respecting the seizure of the British colonial vessel Saxon, at Angra Pequena, by the United States ship-of-war Vanderbilt, together with copies of the statements of the master and crew of the Saxon of the circumstances attending the seizure.

I am, &c.,

W. G. ROMAINE.

[Enclosure 1 in No. 10.]

Rear-Admiral Sir B. Walker to the Secretary to the Admiralty.

NARCISSUS, SIMON'S BAY, December 17, 1863.

SIR: Referring to my letter, dated the 17th ultimo, reporting the seizure of the British colonial vessel Saxon, on the 30th October last, by the United States ship-of-war Vanderbilt, at Angra Pequena, on the southwest coast of Africa, I beg to enclose, for their lordships' information, the statements of the master and crew of the Saxon, who have since returned to Cape Town, containing full particulars of the proceedings of the American officers and of the death of the chief mate of the Saxon, who was shot by one of them after the seizure of the vessel.

* The passage in brackets omitted to Messrs. Hamilton.

It is alleged that Penguin island, at Angra Pequena, near to which the Saxon was lying, is British territory. I find, on inquiry, it was annexed to this colony in August, 1861, together with Ichaboe and others, as a guano island, by a proclamation of Sir George Grey, subject to the approval or disapproval of her Majesty's government, but it does not appear to have been confirmed or noticed in any way from home.

I have, &c.,

B. W. WALKER.

[Enclosure 2 in No. 10.]

Statement of the master of the Saxon.

I sailed from Ascension on the 26th September, and arrived at Angra Pequena on the 16th October.

On the 27th I commenced taking in cargo—skins and wool. On October 30, at 11 a. m., we finished loading. The carpenter then commenced to batten down the hatches, the men being employed in clearing decks, and securing spars, and getting ready for sea.

About 1 p. m. we saw a steamer rounding Angra Point, which proved to be the federal man-of-war Vanderbilt. She came to an anchor abreast of Penguin island, lowered a boat, and sent it on board the Saxon, with two officers and a boat's crew, all armed. At 1.30 p. m. she boarded us, and the officer asked where I was from. I told him from Ascension.

He then asked how long I had been at Angra Pequena, and I told him. He also asked what my cargo consisted of, and I told him.

He then requested me to show him my papers. I asked what authority he had to look at my papers. He said Captain Baldwin had sent him to look at the ship's papers; and added, "It is of no use, captain; I must see your papers." I then showed him the ship's papers; he read them and said, "Skins and wool; that will do," and went on deck, taking the papers with him.

He looked down the hold, and asked me if I knew where the skins and wool came from. I told him that all I knew about it was, that I had come there to take it in. He then told me he must take my papers to Captain Baldwin, and would leave an officer on board to make a signal in case I should attempt to move the ship. I told him I was ready for sea, and would go, papers or no papers, and take with me the officer he might leave. He then said I had better try it, as the steamer would go faster than we could. He then left the ship, leaving a junior officer on board. At the same time that the officer left my ship, a second boat with another officer and crew, all armed, put off from the steamer. They came on board about 2.30 p. m. and took charge, placing armed men all round the ship, and driving my crew below.

The officer never reported to me that he had come to take charge until I went to him and asked him what he had come to do. His answer was, "Who are you, sir?" I told him that I was the master of the ship. He replied, "You are now no more master of this vessel, and I will thank you to go below, and give no more orders, sir; further, I will not allow you to speak to any of the ship's company." I told him he might as well have behaved as a gentleman, and have come to me and told me what his business was, instead of taking charge without acquainting me with his intention, and before Captain Baldwin had seen my papers. He then ordered me below. About 4 p. m. the island men that were helping to load the ship came alongside in a boat with some fish, and asked for some meat and bread, as they had had nothing to eat since breakfast. I told my chief officer he might give them some, but that he must first ask the officer

in charge of the ship. He did so; and the officer in the first instance said they might have some, but afterwards changed his mind, and with impious imprecations said they should not have a bit. I then said to the officer, "Let us go forward and give them some." He said, "No, you shall not go forward, and they shall not have anything from the ship." I then said, "They shall have something to eat," and was going forward, when the officer ordered his men to stop me and take me below, which they did, the officer at the same time saying, "My fine fellow, if you don't go below I will very soon put you where the dogs won't bark at you." I had been below about nine or ten minutes, with a sentry over me, when I heard the report of a pistol. I instantly rushed on deck, and was told they had shot the mate. I went to support the mate in my arms; he never moved or spoke; he was shot dead. I said to the officer in charge, "Why have you shot my mate?" His reply was, "It was an accident." I then asked the junior officer who shot the mate, and why he did it? He said, "Poor fellow, I am sorry for him; but I must obey orders." They then hove up the anchor and dropped the Saxon abreast of Penguin island.

The Vanderbilt at this time was in chase of another vessel that hove in sight. She returned next morning. Captain Baldwin sent for me on board the Vanderbilt. Upon my going on board, Captain Baldwin addressed me thus: "You are Captain Sheppard, of the bark Saxon?" "Yes, sir," I replied. "Well, captain," he continued, "I am very sorry for you, but your papers are not satisfactory to me, and I must make a prize of the Saxon, and send her to the prize authorities at New York. We know that it is the Tuscaloosa's cargo that you have on board. It was brought here by the confederates, and it is American property. That is the ground upon which I make a prize of your ship. I must do my duty to my country, and protect American property."

The Vanderbilt steamed into Penguin island when I was on board of her, and commenced taking in coals that was on shore there. I told Captain Baldwin the island was British territory. He replied, "I cannot help it; I want coal, and must have it." Captain Baldwin had a coffin made for Mr. Gray, the chief officer, and he was buried on the main land on the 31st October, by the Vanderbilt's men. They would not allow any of the ship's company, except myself, to follow him. On the 1st November they landed me and my crew on the main land, with a little bread and water, not sufficient for one day, and our personal effects.

We walked along the coast to the shore opposite Halifax island, to which we crossed in a boat. We arrived in the evening. On November 3, the schooner Isabel, of Cape Town, Captain Roe, came in and took us on board. We proceeded to Ichaboe, and then to Hottentots' bay, where we arrived on 10th November. On November 13 we went on board the Lord of the Isles, bound to Table bay, where we arrived on 21st November.

[Enclosure 3 in No. 10.]

Statement of the crew of the Saxon.

CAPE TOWN, November 23, 1863.

About 11 a. m. on the 31st October, while lying at anchor at Angra Pequena, we saw a large steamer, which afterwards turned out to be the Vanderbilt, rounding the point. She dropped anchor and lowered a boat, which pulled for us and boarded us. The officer, after looking at the ship's papers, said he would take them on board the Vanderbilt, which he did, after leaving a junior officer in charge, with orders not to allow the anchor to be weighed. Captain Sheppard told him that he was quite ready for sea, and he intended getting under way immediately after dinner. The officer said he could not, as he had his

papers. Captain Sheppard said he would go, papers or not. The officer then went on board the Vanderbilt, but returned almost immediately with another boat's crew, when he took charge.

About this time a whale-boat's crew (belonging to an island called Halifax) came on board with some fish, when they asked Captain Sheppard for some bread and meat, as they had none in the boat.

The captain asked the American officer, who said that they might have some, but soon after changed his mind, and said they might not. The men then appealed to Captain Sheppard, who said, "Heave it into the boat; if they stop you I can't help it." The American officer then came to Captain Sheppard and touched him on the shoulder, saying, "You had better go aft; you are giving too many orders here;" adding, "If you don't I'll put you where the dogs won't bark at you," laying his hand on his revolver at the same time.

The captain then went aft and was confined to his cabin under a sentry's charge.

A short time afterwards, Mr. James Gray, the chief officer, went aft to go on the poop, but had only got to the top of the ladder, when a junior American officer, a Mr. Donohoe, told him to go down; Mr. Gray did not go immediately, not exactly knowing what was the matter, when the officer repeated the order, saying, "If you do not, I will shoot you," at the same time shoving him. Mr. Gray's foot caught in one of the steps of the ladder, when he turned half round and looked up in the officer's face, who then drew a revolver and shot him dead. We attempted to go aft to pick up Mr. Gray, when the senior officer told his men to draw swords and drive us forward, which they did, abusing us at the same time. We went aft afterwards and found Captain Sheppard and the second mate supporting the mate's head. The ball had entered behind the left ear and gone down into his body. The officer who shot him said he was sorry for the man, but he should obey orders, adding, "There is some humbug about that boat," meaning the whale-boat, adding that five men came off in her, and seven were going on shore; that they were all Alabama's men, and they "ought to go on shore and do for the b——dy lot of them. He then pointed his pistol to the body of Mr. Gray, saying, that is one of the Alabama's men too. We were kept below all night, with orders not to come on deck without hailing the sentry, if we did not want to be shot.

They buried the body of Mr. Gray late in the morning opposite Penguin island. The bark was dropped down where the Vanderbilt had been lying, (but which was then in chase of a vessel in sight.) The Vanderbilt came in next morning, and went inside Penguin island, where she took in a lot of coals that were there, and went to sea next morning. We were landed on Sunday morning, and about a quarter of a bag of bread and a small keg of water. We then walked over the main land to a place opposite Halifax, when the men on the island came for us in a boat.

We stayed two days on the island, when the schooner Isabel came in and took us down to Ichaboe, where we stayed a few days, when we went to Hot-tentots' bay, where we went on board the brig Lord of the Isles, and came to Cape Town.

No. 11.

Mr. Elliot to Mr. Hammond.—(Received January 30.)

DOWNING STREET, January 28, 1864.

SIR: I have laid before the Duke of Newcastle your letter of the 21st instant, relative to the capture at Angra Pequena, on the coast of Africa, of the British vessel Saxon, by the United States steamer Vanderbilt, and I am directed by

his grace to transmit to you, for the information of Earl Russell, a copy of a despatch from the governor of the Cape of Good Hope, containing the particulars which you state in your letter are required by the law officers of the Crown.

The Duke of Newcastle never heard until this time of the act by which Sir George Grey assumed to annex various small islands off the same part of the coast of Africa as the island of Ichaboe, and, so far as at present advised, his grace is not disposed to confirm the measure. As far as can be judged from the best map in this office, the islands by no means answer to Sir George Grey's description of "a cluster of small islands or rocks adjacent to" Ichaboe, but are situated at various distances from that island, one of them being at least fifty miles off.

I am, &c.,

T. FRED'K ELLIOTT.

[Enclosure 1 in 11.]

Sir P. Wodehouse to the Duke of Newcastle.

GOVERNMENT HOUSE,
Cape Town, December 18, 1863.

MY LORD DUKE: By my despatch of the 20th ultimo I reported to your grace that news had been received here of certain acts said to have been done by the United States war steamer Vanderbilt, on the coast to the northward of this colony, of which, at the time, I was unable to furnish any particulars; but I believe I am now in a position to transmit such information as will enable her Majesty's government to determine what course it will be expedient for them to pursue.

It will be seen that the Vanderbilt, on her arrival at Angra Pequena, a small bay on the west coast of Africa, beyond the limits of this colony, found lying at anchor a vessel named the Saxon, the property of a mercantile firm in Cape Town, of which she immediately took possession, on the plea that she was laden with the cargo of the Tuscaloosa, a federal merchant ship which had been taken by the Alabama and converted into a privateer. That the Vanderbilt then proceeded to take possession of a quantity of coals belonging to the owners of the Saxon, which had been deposited on Penguin island, a small island in the bay of Angra Pequena; that she has sent the Saxon, with her cargo, in charge of a prize crew for the adjudication of a court of competent jurisdiction in the United States; and that before the departure of the Saxon her chief officer was shot by one of the officers of the Vanderbilt.

There are, therefore, three separate transactions on which it becomes necessary for me to furnish information, viz: the seizure of the ship, the appropriation of the coals, and the death of the mate.

An impression generally prevailed there that Penguin island, near which the Saxon was anchored, was British territory, and that, consequently, the seizure of that vessel in such a locality was a direct infringement of British rights. But upon inquiry I have discovered that such is not the case. On the 13th April, 1861, your grace communicated to my predecessor that her Majesty's government had decided on the annexation to the Cape colony of the island of Ichaboe, which was duly carried out. Subsequently, some merchants of this town, interested in the guano trade, brought under the notice of Sir George Grey the case of certain small islands adjacent to Ichaboe; and the result was that, on the 12th August, 1861, he published a proclamation for bringing under the dominion of her Majesty Penguin island, and ten others, "subject to her Majesty's gracious confirmation and disallowance." Immediately after this had been done,

Sir George Grey sailed for New Zealand; and there is no record of the proclamation having been reported to your grace, or of the annexation having been confirmed by her Majesty. Upon the score of territorial rights, therefore, as arising out of the vicinity of this island, I conceive no objection can be taken to the acts of the Vanderbilt. In other respects the capture of the Saxon may fairly be left to the adjudication of a court of law. One of the owners of the ship has admitted to me without reserve that the cargo on board at the time of the seizure was a part of that landed from the Tuscaloosa, and was intended to be conveyed to a market as the property of, and on account of, Captain Semmes, of the Alabama.

The same gentleman informed me he had been in communication with the United States consul respecting the appropriation of the coals; and he had little doubt that officer would obtain authority of his government to pay for them. The consul has since expressed himself to the same effect to me.

The death of the mate of the Saxon involves considerations of a far more serious nature. The depositions taken by the acting attorney general go to show that when the crew of the Saxon were entirely without arms, and apparently without either the means or the wish to offer any resistance to their captors, this unfortunate man was, on little or no provocation, shot dead by one of the officers in command. Whether the act was the result of wanton ferocity, or whether it was perpetrated under the influence of unfounded apprehension, it seems hard to say. But it is very satisfactory to find, from the evidence of the master of the Saxon, that the captain of the Vanderbilt was much displeased at what had occurred, and had at once placed the officer under arrest. I cannot but hope that under such circumstances the government of the United States will be prepared cheerfully to grant such reparation as her Majesty's government may consider the case to require; and I beg to recommend to your grace's most favorable consideration an application which has been made to me by Messrs. W. Sampson and Son, as the agents of the widow of the deceased James Gray.

I have, &c.,

P. E. WODEHOUSE.

[Enclosure 2 in No. 11.]

Proclamation.

Proclamation by his Excellency Sir George Grey, Knight Commander of the Most Honorable Order of the Bath, Governor and Commander-in-Chief of her Majesty's colony of the Cape of Good Hope in South Africa, and of the territories and dependencies thereof, and vice-admiral of the same, and her Majesty's high commissioner, &c., &c., &c.

Whereas the island of Ichaboe was, on the 21st day of June last past, taken possession of for and in the name of her Britannic Majesty Queen Victoria, and declared a dependency of the Cape of Good Hope: And whereas it is expedient that, subject to the pleasure of her Majesty in that behalf, her dominion shall also be declared over a cluster of small islands or rocks adjacent to the said island of Ichaboe: Now, therefore, I do hereby proclaim, declare, and make known, that the sovereignty and dominion of her said Britannic Majesty, Queen Victoria, shall be, and the same are hereby declared over the following islands or rocks adjacent to Ichaboe—that is to say, Hollamsbird, Mercury, Long island, Seal island, Penguin island, Halifax, Possession, Albatross rock, Pomona, Plum-pudding and Roast Beef, or Sinclair's island. This proclamation of her Majesty's sovereignty and dominion to take effect forthwith, but to be subject to her Majesty's gracious confirmation and disallowance. God save the Queen.

Given under the public seal of the settlement of the Cape of Good Hope, this 12th day of August, 1861.

G. GREY, *Governor.*

By command of his excellency the governor:

RICHARD SOUTHEY, *Acting Colonial Secretary.*

No. 53, 1861.

[Enclosure 3 in No. 11.]

Mr. Denysen to Sir P. E. Wodchouse.

(Extract.)

ATTORNEY GENERAL'S OFFICE,

December 12, 1863.

I have the honor to submit for the consideration of his excellency the governor the following depositions, taken by the acting clerk of the peace, of certain proceedings near to and in Table bay, Saldanha bay, and Angra Pequena, and in which certain of the cruisers of the federal and confederate States of America, and other vessels, were concerned. The depositions are numbered 1 to 5.

The dates in these papers do not always correspond, nor are they given in certain cases with any accuracy, but they are unimportant, and may be collected from the proceedings with sufficient certainty for all purposes required.

Among the papers will be found an extract from the log of the schooner *Atlas*, Thomas Boyce, commander; but I must remark respecting it, that it does not contain that portion which refers to the assistance rendered to the *Saxon* on finding her in Angra Pequena, of which the particulars were entered, and of which I requested an extract; the omission, however, has been remedied by the evidence of Captain Boyce.

The inquiry respecting the shooting and death of Mr. Gray, of the *Saxon*, is fully gone into; the circumstances did not warrant such a proceeding, judging from the evidence taken, and which I have no reason to doubt. In this opinion Captain Baldwin evidently concurred, as he expressed his regret about it.

[Enclosure 4 in No. 11.]

Deposition of G. Riley.

AUGUST 22, 1863.

George Riley states: I am a fisherman. About three weeks ago I started on a fishing excursion down the coast to Saldanha bay, and while pursuing my avocation there on Monday last, the 17th August, I saw two barks enter the bay. One was the *Sea Bride*, heavily laden, and the other, the privateer *Tuscaloosa*, came in about sundown. I saw lots of people going off to them—farmers and country people. The *Cock of the Walk* came in there about sundown on Tuesday. Early next morning I looked out for the barks, but they were gone. I was astonished at this, because it was a dead calm through the night, and it continued so all day. The *Cock of the Walk* was still there. I could not have got out that night by sail I am sure. I might have pulled out.

On Thursday morning I left in company with the *Cock of the Walk*, and on leaving we met a large steamer entering the bay. It was a paddle-wheel steamer under British colors. I saw nothing of the *Alabama*; but about twenty days before I saw a vessel there, which I afterwards learnt was the *Alabama*, but she was not there on this occasion.

GEORGE RILEY.

Witness: W. H. SCOTT.

Before me,

R. JOHNSON DUTTON, *Acting Clerk of the Peace.*

[Enclosure 5 in No. 11.]

Statements of James Roper, Augustus Knight, Louisa Johnson, Gabriel Antonia, William Henry Scott, Thomas Armson, and Joseph Wilson.

CAPE TOWN, August 22, 1863.

James Roper states : I was navigator on board the Kadée cargo boat, which was formerly called the Cock of the Walk, on her late trip to Saldanha bay. I was engaged for service by Mr. Sarey, the owner ; we were to go there for a cargo of shells. We left the south wharf about ten o'clock on Saturday night. There were three men belonging to the boat besides myself. We ran off to the bark Ellesmere, where we took on board five men, and then proceeded on the voyage. Captains Clarke and Johnson were not on board the boat.

We came to an anchor outside the shipping, as there was no wind to take us out.

On Sunday morning we weighed anchor and tacked about all day, but could not get out.

When I awoke on Sunday morning, I saw Captain Johnson and another man, a short thick-set man. I don't know if it was Captain Clarke, because I don't know him. I heard they had been taken on board during the night. I saw the Lord of the Isles going out on Sunday. We had no communication with her, and we were not at any time within three miles of her. We anchored in Commandant bay, Rabben island, that night. On Monday morning we got under way—the wind was westerly, but light, and we proceeded. Monday night was calm, and we lay off Saldanha bay. Tuesday morning was calm ; noon, light breeze from SW. About 4.30 p. m. we came to anchor in Hatjes bay, which is the northern arm of Saldanha bay. We saw there two barks at anchor, with sails set, about three-quarters of a mile from us. At dusk a boat came alongside us from one of the barks and took off the men we had taken on board. I don't know what vessels they were ; they had no colors flying, but I supposed they were privateers. Next morning, at daylight, when I turned out, they were both under way, and stood out to the SW. The wind was off the land easterly. We remained where we were all day ; I was ashore, but saw no strangers there. On Thursday morning we weighed anchor to return to Cape Town ; on coming out we met the Valorous going in, about a mile apart.

She did not speak to us.

We continued our passage, and arrived in Table bay about ten o'clock the same night, (Thursday.)

I did not see the Alabama, Georgia, or Florida, during the cruise, or any other vessel besides those I have mentioned. The people who came to take the men were dressed in plain clothes, and had no uniform, nor were they armed.

The men seemed quite willing when we took them from the Ellesmere.

JAMES ROPER.

Witness :

W. H. SCOTT.

Before me,

R. JOHNSON DUTTON,
Acting Clerk of the Peace.

WATER POLICE OFFICE, *Cape Town*, August 18, 1863.

SIR : I have the honor to report that I have boarded the bark Ellesmere according to your instructions, and found the following seamen on board : Richard Harper, mate ; Wallace Damouth, laborer ; Gabriel Antonia, seaman ; John Trent, seaman.

The chief officer, when questioned where the remainder of the crew were, reported that they had deserted on Saturday night last, the 15th instant.

The following are the names of the seamen that are absent according to shipping book : Manuel Pereira, Andrew Gregory, Thomas Juellson, Daniel Johnson. I also beg to state that no information has been given at the Water Police Office, according to custom, and I have seen the master daily.

I have, &c.,

W. A. SCOTT.

Augustus Knight, sailor, states : Yesterday afternoon I met Gabriel Antonia, a seaman on board the Ellesmere, who told me, in course of conversation, that he had leave ashore from Saturday to Monday; that when he left on Saturday there were five seamen and the cook still on board, and that when he returned on Monday morning they were all gone; he told me that the captain had informed him that he had put the men on board the Alabama; I know the three missing crew, one named Jackson, a shipmate with me in the Waldensian; he is an elderly man, and was cast ashore here at the wreck of the A. H. Stevens; Jim Grey, another, also on board the Waldensian since I left; and another, Jackson, formerly of the Wave Spirit.

Mark of AUGUSTUS + KNIGHT.

Witness :

J. W. H. RUSSOURR.

Before me,

R. JOHNSON DUTTON,
Acting Clerk of the Peace.

Louisa Johnson states : My husband was a seaman on board the bark Ellesmere; he signed the articles of the ship at the shipping office on or about the 1st of this month at wages of £2 10s. per month, and went on board; I saw him last on Tuesday, the 11th. Yesterday a man named Augustus Knight came to me and informed me that a sailor from the vessel had told him my husband had gone away—left the ship at midnight and gone to sea. Yesterday afternoon I went to the captain to ask him about the truth of this story, when he told me not to fret about it, that my husband was gone to another ship, where he would have £5 a month, and he would get so rich that when he came back I might live like a lady; he afterwards told me my husband deserted, and that if I came back again he would give me a letter from my husband.

Mark of LOUISA + JOHNSON.

Witness :

J. H. H. RUSSOURR.

Before me,

R. JOHNSON DUTTON,
Acting Clerk of the Peace.

Gabriel Antonia states : I am an ordinary seaman on board the Ellesmere, now lying in Table bay. My child died last week, and I obtained three days' leave to come on shore. I returned on Monday morning, when I found that all the chaps had gone. I saw a countryman of mine here, named John Franks, and asked him what had become of the chaps. He replied that he did not know; but he afterwards told me they had gone to a ship on the leeward side—he thought it was the Alabama—and that they were to have £4 a month. Before this I had seen the mate, and he said to one, "You have missed a fine chance, here the chaps have gone away and got £6 a month;" but John Franks said that only the cook was to have £6 a month. They did not tell me what

ship they had engaged in, but they told me that the men had gone away in a boat, in the middle of the night, on Saturday. Their things have all been taken away from the ship. John Franks told me he thought they had gone to the Sea Bride, the Alabama's prize, outside.

Mark of GABRIEL + ANTONIA.

Witness :

W. H. SCOTT.

Before me,

R. JOHNSON DUTTON,
Acting Clerk of the Peace.

William Henry Scott, Boat Office, Water Police, states : At three o'clock in the afternoon of yesterday, (Tuesday, August 18,) I received a list of the names of the seamen who had shipped on board the bark Ellesmere, from the shipping master, with instructions to proceed on board to ascertain the number and names of seamen then on board, which I ascertained to be as follows : Richard Harper, mate; Gabriel Antonia, seaman; John Franks, seaman; Wallace Damouth, laborer. The latter, who I found to be one of the late crew of the Sea Bride, had only been engaged the previous day. I then questioned the mate as to the whereabouts of the remainder of the crew, who replied that they had deserted on Saturday night. Their names, viz: Manuel Pereiro, Henry Gregory, Thomas Grianes, Lewis Jackson, Daniel Johnson. I have searched the vessel to-day, and find that all these men's effects have been removed. I had never received notice, as is usual, of any of these men having deserted.

W. H. SCOTT.

Witness :

J. A. B. FLACK.

Before me,

R. JOHNSON DUTTON,
Acting Clerk of the Peace.

CAPE TOWN, August 18, 1863.

MY DEAR DUTTON : Thomas Armson, the master of the Ellesmere, will hand this to you; he has told me the truth to the fact that they were persuaded to go in a shore boat to Saldanha bay, and there join the Sea Bride. The act of the master is an illegal one, and comes under the spirit of the 207th section M. S. act 54, par. (4) which see. What is to become of these men? The contract cannot be severed without the sanction of the shipping-master.

I enclose you a letter, put into my hands, from Daniel Johnson, one of the missing men, to his wife, whom I sent to you under charge of Scott, of the Water Police.

Yours faithfully,

THOMAS TINLEY.

AUGUST 15, 1863.

MY DEAR WIFE : I taking a pleasure of writing this few lines to you for to let you know that I am going away, but I do not know; but I am going away on board a ship that I do not know, but I will let you know the first port where we shall run in. My dear wife be happy that I will come back again to Cape Town, but mind your lines, and my friend James, he sign the same, so we send our best compliments to everybody in Cape Town.

Thomas Armson, master of the bark *Ellesmere*, states: The bark *Ellesmere*, which I command, is the property of Mrs. Alfred Marcus. I say so because she is registered in her name. On Monday, the 3d August, I shipped a crew before the shipping-master at the Sailors' Home, consisting of six able-bodied seamen and cook, which last also performs the duties of steward; I had a mate already on board.

On Saturday morning last Captain Elmstone, of the firm of Rubent, Granger & Co., asked me if I would allow my crew to go off to take charge of the confederate prize *Sea Bride*, if they could be induced to go, and I acquiesced.

I went aft and asked the men if they would go. I told them they would be required to go off that night; that they should have £4, a month's wages, (I engaged them at £2 10s. only,) and if they were not satisfied when on board they should be discharged at the first port the vessel might call at and forwarded to the Cape. They agreed to the terms and seemed quite satisfied to go. They left the ship about midnight on Saturday, the 15th. They were five in number, viz: Manuel Periero, cook; Thomas Grianes, seaman; Louis Jackson, ditto; Daniel Johnson, ditto; Andrew Gregory, ditto. They took all their effects with them.

(Further evidence of this witness stayed by order of the attorney general.)

R. JOHNSON DUTTON,
Acting Clerk of the Peace.

CAPE TOWN, *August 22, 1863.*

Joseph Wilson, cockswain of the cargo boat *Cock of the Walk*, states:

On Saturday last, the 15th August, Mr. Sarey, by whom I am employed, told me he wanted me to go that evening to the bark *Ellesmere*, and thence to Saldanha bay. About seven or eight o'clock that evening we cast off from the wharf and went alongside the *Ellesmere* and took four men from her. They were all black men; I think they were West Indians. We took a bag of bread and the men's effects also. She then moved out, but afterwards brought up under the island on this side. We had also another person on board; he belongs to the volunteer artillery, and I think his name is Clarke; he is a short thick-set man; also Mr. Johnson, late captain of the *Albatross*.

On Sunday morning we again got under way, and tacked about all day without being able to get out, and came that night under the island. I saw the Lord of the Isles going out on Sunday. We were close to her, but I can positively assert that we held no communication with her. On Monday morning a SW. wind sprung up, and although not a favorable breeze, we got out with it, and continued our course towards Saldanha bay. We had very heavy weather. I have been a boatman here for about twelve years, but I have never seen such a heavy swell as we experienced on our way down. We arrived off the bay about four o'clock in the afternoon of Tuesday. We went into the bay. The *Sea Bride* was there, just at the mouth of the bay, but the swell afterwards took her, and the prize-master (an officer of the *Alabama*) then boarded us and took off Mr. Clarke, Mr. Johnson, and the four men from the *Ellesmere*. There may have been five men from the *Ellesmere*; I did not take particular notice of it, and they kept themselves very scarce on board the boat. The *Alabama* was not there, nor did I see her anywhere during the cruise. I saw a bark standing off and on outside, but I cannot say whether it was the *Tuscaloosa*. I saw no other vessel besides these and a couple of cutters coming down the coast, with the exception of the English man-of-war, which we met entering the bay just as we were coming out. This was about half-past ten o'clock yesterday (Thursday) morning. We passed her close to, but she did not hail us in any way.

I was on shore at Saldanha bay on Wednesday for about ten minutes, and again yesterday morning for a short time, but I did not see any strangers there.

The vessel I call the English man-of-war had two funnels painted yellow and was bark-rigged, and seemed to be coming from the Cape. When the men went on board the Sea Bride that vessel held on until the next morning, when she put out to sea and stood to the westward until we lost sight of her.

The Sea Bride was between two and two and a half miles from the Heads when the men were taken on board. When I say the swell took her into the bay, I mean that it fell calm, and that she steered for the passage to avoid going on the rocks.

JOSEPH WILSON.

Before me,

R. JOHNSON DUTTON,
Acting Clerk of the Peace.

[Enclosure 5 in No. 11.]

Deposition of Captain Boyce, of the schooner Atlas.

CAPE TOWN, November 14, 1863.

I left Table bay on the 13th August, with a crew consisting of nine men, including myself, all the men of the former and previous voyages. Arrived at Pomona island on the 20th same month, where we anchored. Left the vessel on the 22d in a whale-boat to Halifax, leaving the vessel in charge of the first mate, Matley. Joined the vessel again at Angra Pequena on the 27th August. At Pomona, or rather on the main land, left certain articles for the use of Captain Sinclair and his party, working a copper mine. There was nothing taken on board before joining the vessel at Angra Pequena. From the last-mentioned place I took the vessel to Halifax, where I loaded a cargo of guano. At Angra Pequena there was no other European than Captain Bruce, who is a trader in the interior. I took a wooden house down to Angra Pequena for Bruce, but had no time to put it up, and when I left it was still lying on the beach. At Halifax I took in a cargo of guano for the first vessel to be chartered to carry guano away from the island, large vessels not being able to get near Halifax, this mode of loading being adopted by means of small boats. The Earl of Mar and Kelly arrived at Angra Pequena on the 12th September, when we put on board the guano I had in the Atlas, and then proceeded with her to Ichaboe and finally filled the vessel, the Earl of Mar and Kelly, at the island of Mercury, on the 22d October. She then proceeded on her voyage to Leith, and I made the best of my way back, calling at the different islands, and at Angra Pequena, which last-mentioned place Bruce had left, and found no other European on the main land. On my way back, on the 29th October, (having left Pomona on the 28th,) I was boarded by the Vanderbilt, United States steamer. Besides my own crew I had then on board Mr. Goodman and six others, five being miners, and the other the man in charge of the Ichaboe island. The miners are all discharged, and the other returns with me to Ichaboe. An officer of the steamer came on board. He called me by name, as Captain Boyce, and demanded my papers. I gave them up, and he thoroughly examined them. He then asked me what I had done with the cargo, according to the manifest and store list, from the custom-house, Cape Town. I told him that the cargo had been delivered to the parties to whom the same was consigned. He then left the cabin and went down the hold; I accompanied him. He looked about, came on deck, and demanded my log-book, which I produced, and which was examined by him. He then asked me about the vessels on the

ceast, about the Isabel and Alehtia—the latter taking in a cargo of guano at Ichaboe, by means of the Isabel—and he then left the vessel. Before doing so, however, he asked about some coals at Penguin island, one of the islands in Angra Pequena, when I told him that I had seen some coals. During all the time the officer was on board, I never lost sight of him, to the best of my belief; at all events, I am certain that no other party could have spoken to him without my knowledge. I am quite certain that no person on board did or could have produced or read to him any other paper or document than produced by me, and which were the ship's papers. While in the cabin a conversation may have taken place with the boat's crew, of which I know nothing. I don't think any of the boat's crew came on board, but of that I am not certain, as it may have happened while I was below with the officer.

On my way back I found the bark Saxon at Angra Pequena, on the 27th October. I supplied her with one barrel of pork and one of beef, and also gave her three men, George Fuller Martin, and Daniel Hunter, and Oloff Larken, to assist in anything he might have to do. I am not aware what the Saxon was doing at Angra Pequena, nor do I know how long she had been there. I did not go on shore, and the first time I went on shore I did not see any stores or other goods excepting what I brought for Captain Bruce, either on the beach or at any other place near it.

None of my papers were taken away, nor did the officer sign the same, as is usual in such cases. Being ignorant how to act on such occasions, I did not protest against these proceedings, as I should have done.

THOMAS BOYCE.

Before me,

R. JOHNSON DUTTON,
Acting Clerk of the Peace.

[Enclosure 6 in No. 11.]

Extract from the log-book of the Atlas.

TUESDAY, October 27, 1863.

Halifax island. At 6 p. m. got under way for Possession, with a light breeze from the northward; fresh breeze from the northward during the night.

WEDNESDAY, 28.

First part, strong breeze from the northward; at 1 a. m. came to an anchor at Possession; at daylight took on board 12 casks water and 1 keg peas for Pomona; at 7 a. m. got under way for Pomona; at 10 a. m. came to an anchor, started to land stores and water on the main, landed 10 casks water, 6 bags bread, 2 do. flour, 1 do. rice, 1 do. sugar, 1 case gin, 13 bags coals, 1 barrel flour, 1 cask cabin bread, 1 barrel pork, 1 do. molasses, 1 keg peas, 1 box candles, 1 stinkwood plank, 1 box raisins, 5 boxes tea; at 3 p. m. got under way for Cape, with a fresh breeze from the northward; at 5 p. m. sighted a bark to the NW., about 10 miles off; at 8 p. m. strong breeze from the northward; took off at Pomona Mr. Goodman and 5 navvies; strong breeze, with rain, throughout the night.

THURSDAY, 29.

Strong breeze from the northward, with rain. At 7 a. m. took in the square sail, set the fore-stay sail; at 8 a. m. sail to the eastward hoisted signals for us to heave to; at 9 a. m. hove to till the sail came up, and was boarded by an officer from the United States steamer Vanderbilt; light breeze throughout the latter part of the day. Lat., by account, 29.28, long. 16.15 E. at 4 p. m.

FRIDAY, 30.

Weather fine throughout the day ; lat., at noon, 30.20 S., long. 16.10. At 4 p. m. sighted the land ; at 6 p. m. put about ship, stood out.

SATURDAY, 31.

Weather fine throughout the day ; lat., at noon, 30.50 S., long. 16.19 E ; land in sight. At 9 p. m. put about ship, stood off.

SUNDAY, *November 1.*

Fresh breeze throughout the day. At noon, the lat., by obs., 31.42 S., long., by chro., 16.08 E. Tacked ship occasionally.

MONDAY, 2.

Strong breeze from the southward throughout the night. Lat., at noon, 32 50 S.; long. 16.3. Weather fine throughout the day ; at 4 p. m. put about ship, Table bay bearing SE. by S., distance 150 miles. At 4 p. m. the long., by chronometer, 15.49 E., lat. 32.54 S. At 4 p. m. put about ship ; fresh breeze throughout the night.

TUESDAY, 3.

Weather fine throughout the day ; at daylight sent the bonnet of the jib for repairs ; at noon sent it out again. Lat., at 4.30 p. m., 33.23 S.; long., by chronometer, 17.54 E.

WEDNESDAY, 4.

Weather fine, with a light breeze from the northward ; at 5 a. m. made the land out, Table mountain bearing SE. At 11 a. m. came to an anchor in Table bay.

THOS. BOYCE.

[Enclosure 7 in No. 11.]

Deposition of James Adams.

CAPE TOWN, *November 14, 1863.*

James Adams, formerly a sailor on board the Alabama, states :

I left the Alabama, ran away at Angra Pequena, and came up in the Flower of Yarrow. The Alabama, Tuscaloosa, and Sea Bride were there at the time. The Tuscaloosa landed her cargo of wool and green hides there. The Sea Bride transhipped part of her cargo to the Isabel, belonging to Granger. The Isabel's boats conveyed the cargo from the Sea Bride to her. There was another vessel there, the Earl of Mar and Kelly, bound to Aberdeen, and she took off a lot of cargo from the Tuscaloosa. The Atlas was there at the time. I am sure the Atlas was there, and Tom Boyes was her commander, and it was he and his crew who landed the Tuscaloosa's cargo, and I assisted him in doing so. The remainder of the cargo of the Tuscaloosa was at Angra Pequena, on the mainland, when I left in the Flower of Yarrow for Cape Town. While the Sea Bride was there they cut her royal mast short, and altered her in other ways and disguised her, and then called her the Helen, of Hamburg. The Flower of Yarrow took in a part of the Sea Bride's cargo, namely, some hops and tobacco, and she (the Sea Bride) left some time before we did—I was told for Mauritius. Boyes took out the coals, about two hundred and fifty tons, from the Earl of Mar and Kelly, and landed them on Penguin island, and he left for Ichaboe before I left for Cape Town.

There was a brig there also, while I was there, also bound to Aberdeen ; she was loaded up at Ichaboe, and I assisted to load her. Her cargo was guano and nothing else. The Saxon was not there while I remained. The Sea Bride did not take any guano. I was working on board the Isabel for about a fortnight, and I went from Angra to Ichaboe with her and then joined the Flower of Yarrow at Ichaboe, and we took the portion of the Sea Bride's cargo we had on board from the Isabel at that place. I understood that Bruce was to get part of the Sea Bride's cargo for his assistance. Bruce goes up country trading. The Earl of Mar and Kelly also took in some guano on top of the wool—she filled up with guano. When we left the Atlas people were still loading her.

I reported what I have now stated to the American consul before the arrival of the Atlas in Table bay. The Vanderbilt had also left before the Atlas arrived.

I was formerly a seaman on board the Conrad, now the Tuscaloosa. The Sea Bride was at Angra about ten days, and the Tuscaloosa rather more than a fortnight. I saw Captain Elmstone on board the Tuscaloosa ; he used to come on board there from the Sea Bride to dine with the captain. Captain Low, an officer of the Alabama, was in command of the Tuscaloosa, and left with her before I did.

Mark of JAMES + ADAMS.

Before me,

B JOHNSON DUTTON,
Acting Clerk of the Peace.

[Enclosure 8 in No. 11.]

Messrs. Sampson & Son to Mr. Rawson.

3 ADDERLEY CHAMBERS, CAPE TOWN,
December 16, 1863.

SIR : As the duly qualified agents of Mrs. Mary Jane Gray, widow of Mr. James Gray, late a mate on board the bark Saxon, of this port, who was murdered on board the said vessel on the 30th day of October last, by an officer of the United States war steamer Vanderbilt, we beg to bring to the notice of his excellency the governor the circumstances connected with the murder of the deceased, and other particulars bearing on the case, and have to request that his excellency may be pleased to forward this statement to the right honorable the secretary of state, with a request that, if in accordance with international law and the rights of neutral powers, his grace may demand, on the part of the British government, compensation or recompense from the United States government for the loss sustained by the said Mrs. Mary Jane Gray, by the murder of her husband by an officer in the naval service of the United States government as aforesaid.

We take the liberty of briefly stating the facts, which will be borne out by the documents hereafter referred to, and herewith enclosed :

Mr. James Gray signed articles in the month of August last, to proceed in the bark Saxon in the capacity of mate, on a voyage from Table bay to Ascension, thence to Rio, or any port or ports in the South Atlantic, as employment offers, for a term not exceeding six months ; final port of discharge to be Table bay.

On the 2d day of September last the Saxon weighed anchor in Table bay, and proceeded on her voyage, taking a cargo of cattle for Ascension, where she arrived on the 17th day of September last, and after delivery of her cargo there

sailed in ballast for Angra Pequena, the master having received orders from his owners to proceed thither. The Saxon arrived at Angra Pequena on the 16th day of October last, and, after lying there eleven days, the master received orders from his owners to take on board the Saxon certain cargo lying on the beach at Angra Pequena, consisting of skins and wool. This being done, the Saxon was ready for sea on the 30th day of October last, and bound to Falmouth for orders. While preparing for sea, the master of the Saxon observed a steamer anchored abreast of Penguin island. This subsequently proved to be the United States war steamer Vanderbilt. The Saxon was at this time lying about a mile and a half from Penguin island, in British waters. At 1.30 p. m., on the same day an armed boat's crew from the United States steamer Vanderbilt boarded the bark Saxon, asked for the ship's papers, received them, and took them on board the steamer Vanderbilt. Subsequently other boats were sent from the steamer Vanderbilt to the Saxon, and placing armed men on the deck of the Saxon, the officer commanding the boarding party drove the crew of the Saxon down below, and formally took the Saxon a prize to the United States war steamer Vanderbilt.

From the evidence of these transactions, as detailed by the master and three of the crew of the bark Saxon, before a court of inquiry, held before the resident magistrate of Cape Town, by order of his excellency, it will appear that, while the men of the steamer Vanderbilt were on board the Saxon, the mate of the Saxon, James Gray, was at one time standing on the ladder, an officer of the United States war steamer Vanderbilt, a Mr. Donaghan, being immediately above him, on the poop; and on the deck, a few feet below, about a dozen of the Vanderbilt's men were stationed. The officer, Mr. Donaghan, appears to have called out to the mate of the Saxon, James Gray, to go down from the ladder, and, on his not appearing to obey, repeated the order, at the same time pushing Gray on the right shoulder with his left hand. Gray, trying to recover himself, turned half round and looked at the officer, as if to inquire what he had done, whereupon the American officer, Mr. Donaghan, drew his revolver and shot Gray dead.

The evidence in support of the murder, herewith accompanying, will, we conceive, be deemed conclusive. No opposition or resistance of any kind appears to have been made by the deceased mate, Mr. Gray, to warrant this act on the part of Mr. Donaghan. It can, we respectfully submit, be considered in no other light but as a deliberate, cold-blooded murder, and we entertain the hope that her Majesty's government, with that high regard for right and justice which has always characterized the relations of England with foreign nations, will, in its wisdom, enforce upon the United States government the necessity of making provision for the widow of James Gray aforesaid, left, as she is, perfectly destitute, with four young children, in consequence of the murderous act of the aforesaid Mr. Donaghan, an officer of the United States navy.

With regard to the deceased, we beg to state that he was born on the 28th day of May, 1829, at Aberdeen, the son of Alexander Gray, of the firm of Messrs. Watkins & Gray, of Aberdeen, rope-makers. He was a passed master, on the 22d day of February, 1853, and held a certificate as such. He commanded the brig Wanderer, on this coast, for eighteen months, in the years 1855 and 1856, and was employed in the Cape trade for the last eight years. He married Mary Jane Crampton, daughter of Thomas Crampton, of the county of Kildare, Ireland, on the 28th day of July, 1856, by whom he had four children, all of whom survive, their ages being six and a quarter, four and a half, two and a half years, and one month, respectively.

In proof of the matters aforesaid, we beg to forward the following documents herewith annexed, viz:

A. General power of attorney from Mrs. Mary Jane Gray, authorizing us to act on her behalf.

B. Certificate from the registrar of shipping at Cape Town, showing the bark Saxon to be registered at this port.

C. Certificate of the shipping-master at Cape Town, showing the nature of the voyage; and articles of agreement, signed by the crew of the bark Saxon when the vessel left this port, in September last.

D. Certificate from the clerk of the peace, at Cape Town, of evidence taken before the resident magistrate at Cape Town, touching the murder of the mate of the Saxon, the aforesaid James Gray.

E. Notarial certificate and copy of the master's certificate, held by the deceased, James Gray.

F. Notarial copy of certificate of James Murison, owner of the schooner Wanderer, of the said James Gray having commanded the said vessel in the years 1855 and 1856.

G. Certificate of marriage from the Reverend George Morgan, Presbyterian minister at Cape Town, of the marriage of James Gray with Mary Jane Crampton.

H. Notarial certificate of affidavit made by Mary Jane Gray, widow of James Gray, before William Sampson, justice of the peace for Cape Town, that the four children of the said James Gray being alive at this date.

We beg to apologize for not having forwarded this application earlier, but were prevented doing so by the difficulty in getting the documents from the various offices.

We have, &c.,

W. SAMPSON & SON.

[Enclosure 9 in No. 11.]

General power of attorney.

Know all men whom it may concern, that I, the undersigned, Mary Jane Gray, widow of the late James Gray, of Cape Town, do hereby ordain, nominate and appoint William Patrick Sampson and William Byron Sampson, trading under the style or firm of W. Sampson & Son, to be my true and lawful attorneys and agents, with full power and authority, for me and in my name, and for my account and benefit, to ask, demand, sue for, and recover, of and from all person or persons whomsoever, all such sum or sums of money which now are, or shall or may, at any time hereafter, become due, owing, payable, or belonging to me, upon and by virtue of any notes, bonds, bills, book-debts, deeds, or other securities whatsoever; also, for me and in my name, to settle and adjust accounts, as they shall think fit and proper, and, if necessary, to compound for the same and accept a part of the whole; also, to submit any matters in dispute to arbitration, and to sign, seal, and deliver the necessary acts for that purpose; also, to let or hire out houses, to collect and receive rents, and grant receipts for the same, and, in default of payment or delivery, to use and take all lawful ways and means for the recovery thereof, by attachment, ejectment, or otherwise; also, if necessary, for me and in my name, to commence, prosecute, or defend any action or actions, suit or suits, at law or in equity, in any of the courts of this settlement, and the same at pleasure to relinquish; also, to draw, accept, or indorse bills of exchange, or promissory notes, in satisfaction or on account of any debt or claim due or payable to or by me; and further, to buy and sell immovable or landed property; to make, sign, give, and receive, in due and customary form, all acts or deeds of transfer of such landed property; also, to appear at the office of the collector of tithes and transfer dues, and then and there, in my stead, to take and subscribe the necessary oath as to the truth of the purchase amount; further, for

me and on my behalf, to take or give money on mortgage of immovable property, and to appear before the registrar of deeds, and make, pass, give, or receive all such mortgage bonds, or other securities, as may be requisite or necessary, under obligation of my person and property of every description; and also, in my name, to enter into securities of what nature or kind soever; and, generally, for me and in my name, to choose *domicilium citandi et executandi*; to manage and transact all my affairs in this colony, and perform all such acts, matters, and things; to make, sign, seal, and deliver all such deeds or instruments as may be necessary or most for my advantage, and use all lawful means or ways thereto, as fully and effectually, to all intents and purposes, as I might or could do if personally present and acting herein; hereby granting to my said attorneys and agents full power and authority to substitute or appoint one or more attorney or attorneys under them, and the same at pleasure to displace or remove, and appoint another or others; hereby ratifying, allowing and confirming, and promising at all times to ratify, allow, and confirm, all and whatsoever my said attorneys, their substitute or substitutes, shall lawfully do, or cause to be done, in or about the premises, by virtue of these presents.

In witness whereof, I have hereunto set my hand and seal, at Cape Town, this 26th day of November, in the year of our Lord 1863.

MARY JANE GRAY.

As witnesses:

H. G. GLYNN.

J. CRAMPTON.

[Enclosure 10 in No. 11.]

Register.

I, the undersigned registrar of the port of Cape Town, hereby certify that the Saxon (215-69 tons)—official number, 37,024—port number, 1—was on the 9th day of February, 1863, duly registered at this port, in the name of William James Anderson.

Given under my hand, at Cape Town, Cape of Good Hope, this 15th day of December, 1863.

J. T. FISH, *Registrar.*

[Enclosure 11 in No. 11.]

Articles of agreement.

I certify that the terms of the articles of agreement, signed by the crew of the British bark Saxon, of Cape Town, 215 tons, commanded by Stephen Shephard, run thus: from Table bay to Ascension, from thence to Rio, and for any port or ports in the south Atlantic as employment offers, for a term not exceeding six months, final port of discharge to be Table bay.

THOMAS TINLEY,

Shipping Master.

DECEMBER 5, 1863.

[Enclosure 12 in No. 11.]

Deposition of Stephen Shephard, Horace Carren, William Murray, and Richard Cable.

RESIDENT MAGISTRATE'S COURT,

Cape Town, December 1, 1863.

Appeared before John Montgomery Hill, esq., a resident magistrate.

Stephen Shephard, sworn, states: I was the master of the bark Saxon. She

left Table bay on the 2d of September last with cattle for government, and bound to Ascension, where we arrived about the 17th of the same month. I proceeded by order from there to Angra Pequena. The orders were from the owners, Anderson, Saxon & Co. We arrived there on the 16th of October, in ballast. When there, we painted the ship, and after being there for eleven days, I received orders to ship certain cargo that was there, consisting of skins and wool. I took the cargo from the beach by my crew and some men. I received no men from the Atlas. On the morning of the 30th of October I completed loading, and was preparing for sea, and then observed a large steamer, which proved to be the Vanderbilt, American man-of-war steamer. She anchored abreast of Angra Pequena, (Penguin island.) I was lying about a mile and a half from Penguin island. Shortly after, the steamer sent an armed boat to my ship. The officers in charge were Beldon, the senior, and Donaghan, the junior, officers. It was about 1.30 p. m. when they boarded my ship. The first question asked was, "Where I was from?" And I presume they must have already seen the name on the stern. Afterwards, "How long I had been there?" And I told them. They then asked for my papers, and I asked "By what authority he wanted to see the papers?" The officer then told me "That Captain Baldwin had sent him to do so," adding, "Captain, it is no use, I must see your papers." He did not ask me what my cargo consisted of before he saw the papers, but after looking at them, he said, "Skins and wool, that will do." The officer retained the papers and went to look down the hold, and asked me "If I knew where the cargo had come from?" I told him, "All I knew was that I had come here to take it in." He told me "That he must take the papers to Captain Baldwin," and then he left the vessel, leaving the junior officers in charge. He took the register articles, clearance from customs, and the bill of lading with him to the Vanderbilt. I then told the officer "That I was ready for sea, and would leave with or without papers, as I was bound to Falmouth for orders." He said "You had better not try it, for that the steamer could go faster than I could." The Saxon was 215 tons register, and registered at the Cape. On that he left the ship. About an hour afterwards another boat came from the Vanderbilt, with another armed crew in charge of Lieutenant Keith. This boat left at the same time as the other boat left my vessel. We were lying about two miles apart, and a strong breeze blowing at the time. They got on board and placed armed men on the deck; the crew first got up, and then the officer followed. On coming on board his crew drove my men below, and the officer did not state his business at the time he boarded until I asked him, when he asked me "Who I was?" And I told him "That I was the master," and he told me "That I was no more master of this vessel, and I will thank you to go below and give no more orders, and I will not allow you to talk to any of the ship's company." I told him "He ought to have come to me as a gentleman to tell me what his business was, instead of taking charge in the manner he did, and before his commander had seen my papers." He ordered me below then; I made no reply and obeyed. About 4 o'clock I observed a boat, with the island men, coming to our ship to ask for some bread and meat. I told my chief officer, Mr. Gray, "That he might give them some, but should first inform the American officer in charge of our vessel," which he did. At first he consented, but afterwards refused, but gave no reason for refusal. Mr. Gray came and told me of this refusal, and I told him "To heave them into the boat, and if he was prevented I could not help it." Lieutenant Keith was standing by, and told me "I was giving too many orders, and if I did not go below he would soon put me where the dogs could not bark at me." I was down below for about nine or ten minutes when I heard the report of a pistol. I had been in my cabin with a sentry at the door. On hearing the report I rushed on deck, and some one told me, in passing, "They had shot the mate." I went to the main deck and found Mr. Gray lying dead. I raised him

in my arms, but found life extinct. The ball entered at the back of the neck, and saw the pistol in Donaghan's hands, and I was told "That he had shot Mr. Gray." I asked the senior officer "Why he had shot my mate," and he replied it was an accident." I then asked the junior officer, and his reply was, "Poor fellow, I am sorry for him, but must obey orders." They then took the body below. In the mean time the Vanderbilt had gone in chase of a vessel, and we were dropped down to where the Vanderbilt had been lying, nearly abreast of the island, about a cable's length off the island, and between the island and the land. The Vanderbilt returned the next morning, when I was sent for by Captain Baldwin. On arriving on board he asked me "If I was Captain Shephard, of the bark Saxon?" I replied "Yes," and he then said, "Captain I am sorry for you, but your papers are not satisfactory to me, and I must make a prize of your vessel and send her to New York, and we know that it is the Tuscaloosa's cargo you have on board." Captain Baldwin did not mention Mr. Gray's death immediately, and he only alluded to it twice afterwards. Some time afterwards I told him "That I was sorry for the loss of the vessel and the mate," and the captain replied, in reference to the mate, "He was very sorry indeed that it had happened," and he repeated the same remark the next day when I was leaving the ship for good. I asked the officer on board "Where Mr. Donaghan was," and was told "He was under arrest, and that I could not see him." The whole of the officers of the Vanderbilt seemed very much affected on hearing of the death of Mr. Gray, and seemed to regret it during the time I remained. When I left the Vanderbilt I was put on shore at Angra Pequena, where I found my crew, who had already been landed, with the exception of the second mate and cook, the former of whom volunteered to go in my place; and the cook, being an American, went voluntarily. They sent bread and water on shore for our use, and we were left without shelter. The crew of the Vanderbilt took the body of Mr. Gray below. The mate was buried on the 31st of October, and one of the Vanderbilt officers, together with myself, attended the funeral. None of the crew were allowed to do so, but the second mate got into the boat in the dark; we were landed on the 1st of November, and walked across the land to Halifax, a distance of about eleven miles, where we were afforded shelter until we left in the Isabella for Ichaboe, where we stayed for about — days, whence we proceeded in the same vessel to the Hottentot bay, where we were transferred to the Lord of the Isles. I took the cargo from the beach by orders of my owners.

STEPHEN SHEPHARD.

Before me,

J. M. HILL, R. M.

Horace Carrew, sworn, states: I am an able seaman, and was one of the crew of the bark Saxon. I left Table bay to go to Ascension, and from thence to Angra Pequena. We lay at Angra Pequena for about twelve days. I recollect the Vanderbilt boarding the Saxon, and I think it was about the 30th or 31st of October last. A boat came to our vessel with an armed crew and two officers, the junior of whom was Mr. Donaghan, but I don't know the name of the other. I afterwards saw the officer in charge of the boat come out of the cabin with some papers, which I presume to be the ship's papers. He ordered the hatches to be opened, which was done. He then looked at the ship's cargo, and asked our captain "Where the cargo came from?" Captain Shephard said "He knew nothing at all about it only that he had to come and take it in." The officer said "Very well, I must take your papers on board the Vanderbilt, and I leave this officer (pointing to Mr. Donaghan) in charge." He turned to Mr. Donaghan, and said "You stay on board until I send a boat off." Captain Shephard was standing next to him, and he further said, "Don't allow the

anchor to be weighed." Captain Shephard said "My vessel is quite ready for sea, and I intend to go to sea immediately after dinner." The officer said "You can't, I have got your papers;" and Captain Shephard said "I will go, papers or none." Our captain then told us to go to dinner, and the officer left for the Vanderbilt, leaving Mr. Donaghan in charge. We then went to dinner, and after dinner we were called on deck and went about our work, and another boat this time came from the Vanderbilt. The officer and men took charge of our vessel. We were then ordered by Captain Shephard not to interfere. Some short time after that, when I was behind the galley, I saw Mr. Donaghan standing on the brake of the poop. A little before this a boat had come from the shore with some fish. I heard Captain Shephard say to the officer in charge, "Will you give these men in the boat some grub?" He said "Yes," and I then saw Captain Shephard come in a hurry to the place where the men were passing some meat in a boat. The Vanderbilt's men were then stopping them, upon which Captain Shephard said "Throw it into the boat, and if they stop you I can't help it." At that time the American officer came forward and touched Captain Shephard upon the shoulder, and said "You go aft, you are giving too many orders, I will put you where the dogs won't bark at you." Captain Shephard then went away, and it was then I saw Mr. Donaghan standing on the brake of the poop with several of his own men near him. Mr. Gray was half-way up the ladder, when he was ordered down by Mr. Donaghan. I was distant about six or eight yards from them. Mr. Donaghan said "Go down." Mr. Gray did not answer or do anything, when the officer repeated the order for him to go down, adding, "Or I will shoot you." Mr. Gray at the time was facing him, when the officer pushed him on the shoulder with his left hand, and Mr. Gray stumbled and tried to recover himself, and as he turned his face towards the officer, he drew a revolver and shot him. Mr. Gray had nothing in his hands. Two of our men were close to him, and about a dozen of the Vanderbilt's men also about the spot. After he was shot he fell backwards, and I and others went to pick him up. I did not see Captain Shephard at that time. The Vanderbilt men then drew their swords and pistols. Neither of the men of the Saxon was then armed. Mr. Donaghan said, "I am sorry for him, but I obey orders." The men of the Vanderbilt then drove us forward. Some short time after this I and two others went aft and saw the captain and second mate holding Mr. Gray's head. Mr. Donaghan then said, (pointing to the boat which came for fish,) "There is some humbug, as five men came off in her and seven are leaving." The next morning I saw the body of Mr. Gray in the after hold, and the ball had entered behind the left ear. About dusk that night the body of Mr. Gray was taken on shore by the boat of the Vanderbilt. One of the Vanderbilt's men said, "Donaghan is a good shot, but he is a great deal too fast." About 8 o'clock p.m. we were told not to come on deck, and if we wished to do so, to hail sentries first, if we did not want to be shot. They kept us on board the whole of the day Mr. Gray was buried, and on the following morning we were sent on shore in the Vanderbilt's boat.

HORACE CARREW.

Before me,

J. M. HILL, R. M.

WEDNESDAY, *December 2, 1863.*

William Murray, sworn, states: I was an able seaman on board of the bark Saxon when she was seized by the Vanderbilt. I recollect the boat coming alongside with two officers, the junior of whom was Mr. Donaghan. I saw the officer go with the master in the cabin and return with the ship's papers in his hand. He looked down the hatches and said, "Wool and hides; that is enough;" and he left our vessel, leaving Mr. Donaghan in charge, with orders

that the anchor should not be weighed. About an hour afterwards, another boat arrived from the Vanderbilt; there were two or three boats came on the second occasion with armed crews. The men and officers, after getting on board, ordered us forward. Shortly afterwards, a whale boat came from the shore for provisions; the captain referred them to the officer in charge, who at first consented, but afterwards declined allowing the men to have the provisions, some of the men saying "that the sons of bitches are removing the food in the vessel, and to stop them;" and afterwards, that they were pirates and Alabama people, and that we had better be shot at once. They appealed to the master again, and said it was hard to let them go without food for the night, and the master ordered it to be thrown into the boat, and if the officer prevented them, he could not help it. The officer in charge then came forward to the master and said, (after laying his hand on his shoulder,) "You are giving too many orders here, and you had better go below, or I will send you where the dogs can't bark at you." The captain then went below, and the mate was, at this time, standing with us at the gangway, and shortly after followed him into the cabin, but was intercepted by the officer (Mr. Donaghan) saying, "Go forward; you are all pirates." The mate made no resistance at all, nor did he speak, and the officer then pushed him on the shoulder, saying, "Go down or I will shoot you," pointing a revolver at him and shooting him at once dead. The mate lived for a few minutes after he was shot, but did not speak. I was standing within two yards of the deceased at the time, and saw what took place. The captain rushed from the cabin on hearing the report of the pistol, and seeing what had occurred, he called us aft, but were prevented by the men of the Vanderbilt; one or two of us, however, were afterwards allowed to go, of whom I was one; and I saw the same officer who had shot Mr. Gray, standing over him with his revolver cocked and pointed at him, and exclaiming, "There is an Alabama man;" and, referring to the boat leaving for the shore, he said, "Let us go ashore, and do for the bloody lot of them." After this, leaning over Mr. Gray, I said to the officer Donaghan, "Life is gone;" when he replied, (pointing at my face his pistol,) "No, it is not." He was very excited and insolent, but afterwards he said "He was sorry for Mr. Gray, but he should have obeyed orders." We were driven below that night, and told "If we came upon deck that night without hailing the sentry, we should be shot." On the Sunday morning we were put on shore, and were allowed to take nothing else but a little bread and water, besides our kit. The day after our vessel was seized, the Vanderbilt took from Penguin island some coal that was there on the shore.

WILLIAM MURRAY.

Before me,

J. M. HILL, R. M.

Richard Cable sworn, states: I am an able seaman, and was one of the crew of the Saxon. I signed articles at this port. I recollect the 30th of October last, when our vessel was seized by the Vanderbilt, and was present when the mate was shot. A boat from the island came off with fish, and they asked the captain if he could give them some provisions for the night, as they could not proceed to Halifax in consequence of the breeze then blowing. Whilst the provisions were being landed into the boat by the Vanderbilt men one of the men of her went up to the officer in charge of the ship and said "they were taking all the stores of the ship, and that they should be stopped." The captain was standing by at the time, and the officer in charge at first consented, but afterwards changed his mind, and on again being applied to, Captain Shephard told them to put it into the boat, and if prevented, he could not help it. I was walking alongside the master at the time, when Lieutenant Keith came up to him, and, taking him by the shoulder, said, "My fine fellow, you are giving too many

orders here, and if you don't go below I will put you where the dogs can't bark at you," and the master went below, and a sentry was placed over him. Mr. Gray was standing at the main rigging by myself and two other men, and about ten minutes after the captain had gone below Mr. Gray wanted to follow him, when he was stopped by Donaghan and told to go down, and was pushed down by the right shoulder, when Mr. Gray's foot caught in the steps of the ladder, and looked up as innocent as could be, not knowing what was the matter. Donaghan had his pistol already drawn, and without further remark he shot him down. I did not hear that Mr. Donaghan was desired to shoot Gray by the officer in charge of our vessel. Mr. Gray offered no resistance before he was shot. Deceased was liked by the whole ship's company. Mr. Gray could not have given the officers any offence whatever, and he had dined with Donaghan at the master's table the same day. We signed the articles for Ascension, and any other port in the South Atlantic ocean. I was not aware, nor were any other of the crew, to my knowledge, for what service we went to Angra Pequena, and we did not know what our cargo was to be until we saw it on shore at Angra Pequena. When Donaghan had shot Gray he gave orders to his men to draw swords, and our crew to go forward. I don't know the reason for these orders, for they were all armed to the teeth, and double our number, while we had not a weapon among us, and showed no symptom of disaffection or resistance. Mr. Keith came on the poop, when Donaghan ordered us below, and one of the men came up to me in a cowardly and menacing manner and asked me whether we were going to take the ship back again; and I replied, throwing out my arms to show our helplessness, "Does it look like it?" Mr. Keith, when he saw Mr. Gray was shot, disapproved of it greatly, and said "he was very sorry for it, and did not know how soon it would be his turn." There were more than a dozen men of the Vanderbilt close at hand when Mr. Gray was shot, and even if he had showed resistance there was no necessity of using violence. Gray was not a yard distant from Donaghan when he was shot.

RICHARD CABLE.

Before me

J. M. HILL, R. M.

R. JOHNSON DUTTON,

Acting Clerk of the Peace.

ATTORNEY GENERAL'S OFFICE, *December 2, 1863.*

[Enclosure 13 in No. 11.]

Original register.

1856. *Marriage solemnized at Cape Town, in the parish of —, district of Cape Town. 1856.*

No.	When married.	Names and surnames.	Ages.	Condition.	Rank or profession.	Residence at the time of marriage.	After banns or license.	Consent, by whom given, or judge's order.
410.	July 28, 1856.	James Gray. Mary Jane Crampton.	Full age. Minor	Bachelor. Spinster	Mast'r mariner	Cape Town. Cape Town.	Aft. banns.	Jane Hopkins, (formerly Cramp- ton,) mother.

Married in the Scottish church, at Cape Town aforesaid, after banns, by me, George Morgan, minister of the Scottish church.

This marriage { James Gray. } In the pres- { Isaac Lenthall.
was solemnized { Mary Jane Crampton. } ence of { Margaret Crampton.
between us... {

Examined with the original register, by me, and found to be correct.

GEORGE MORGAN, *Minister*.

CAPE TOWN, *November 27, 1863.*

[Enclosure 14 in No. 11.]

Affidavit.

Be it hereby made known that on this, the sixteenth day of December, one thousand eight hundred and sixty-three, before me, William Edward Moore, of Cape Town, Cape of Good Hope, notary public by the authority of government, duly sworn and admitted, personally appeared Mary Jane Gray, widow of the late James Gray, late chief mate of the vessel called the Saxon, and did then and there, in my presence, sign and attest the affidavit hereto annexed, marked A.

An act whereof being requested, I have granted these presents under my notarial form and seal of office, to serve and avail as occasion may require.

Thus done at Cape Town aforesaid, the day, month, and year afore-written.

(*Quod Attestor.*)

W. E. MOORE,

Notary Public.

A.

Mary Jane Gray, widow of the late James Gray, late chief mate of the vessel called the Saxon, maketh oath and saith that there is issue of her marriage with the said James Gray, lawfully begotten, the following children, named Alexander Gray, aged six years; Helen Gray, aged four and one-half years; Thomas James Gray, aged two and one-half years; Matilda Jane Gray, aged one month and six days, still surviving.

Sworn, at Cape Town, the 16th day of December, 1863.

MARY JANE GRAY.

Before me,

W. SAMPSON,

Justice of the Peace for Cape Town.

Be it hereby made known that I, William Edward Moore, of Cape Town, Cape of Good Hope, notary public, by the authority of government, duly sworn and admitted, have this day collated and compared with the originals the copies hereto annexed, numbered 1 and 2:

No. 1. Copy of certificate of competency of James Gray as master.

No. 2. Copy of certificate of service of said James Gray as master.

And I, the said notary, do certify and attest that the same are true and faithful copies of the said originals, and agree therewith in every respect. An act whereof being required, I have granted these presents under my notarial form, to serve and avail as occasion shall or may require.

Thus done and passed, at Cape Town aforesaid, this sixteenth day of December, in the year of our Lord one thousand eight hundred and sixty-three.

(*Quod Attestor.*)

W. E. MOORE, *Notary Public.*

Witnesses: A. T. BRIDGE, *Clerk.*

S. P. FORD, *Clerk.*

No. 1.

[L. S.] BY THE LORDS OF THE COMMITTEE OF PRIVY COUNCIL FOR TRADE.

Certificate of competency as master.

To JAMES GRAY:

Whereas it has been reported to us that you have been found duly qualified to fulfil the duties of master in the merchant service, we do hereby, in pursuance of the mercantile marine act, 1850, grant you this certificate of competency.

Given under the seal of the Board of Trade, this twenty-second day of February, 1853.

By order of the board.

J. W. BUSHEY,
J. G. FANSHAWE,
Officers of the Naval Department.
Pro Secretary to the Naval Department.

Entered at the general register and record office of seamen on the twenty-third day of February, 1853.

EVERARD HORNE COLEMAN.

Endorsed: No. of certificate, 4702. Address of bearer, 77 West North street, Aberdeen. Date and place of birth, 1827, Aberdeen, Aberdeen. No. of register ticket, 198,777.

JAMES GRAY.

This certificate is given upon an ordinary examination passed at Aberdeen on the nineteenth day of February, 1853.

Any person who fraudulently forges or alters a certificate, or fraudulently makes use of any certificate to which he is not justly entitled, is liable either to be prosecuted for a misdemeanor, or to be summarily punished before a magistrate by a penalty of £10, or by imprisonment with hard labor for three months; and any person who refuses to deliver up a certificate which has been cancelled or suspended is liable to the same summary punishment.

Issued at the port of Aberdeen on the 25th day of February, 1853.

GEORGE BROCK, *Shipping Master.*

No. 2.

This is to certify that James Gray has been in command of my schooner *Wanderer* for eighteen months past, and has shown himself to be a fit and proper person to take charge of a vessel.

JAMES MURISON.

CAPE TOWN, August 1, 1856.

No. 12.

Messrs. Sinclair, Hamilton & Co. to Earl Russell.—(Received January 30.)

11 ST. HELEN'S PLACE,
London, January 29, 1864.

MY LORD: We have the honor to acknowledge receipt of Mr. Hammond's letter of 21st instant, and have deferred replying to the same until the arrival of the Cape mail placed us in possession of fuller information as to the circum-

stances attending the capture of the British bark *Saxon* at Angra Pequena.

Accordingly we have the honor to enclose copies of the depositions by the master and crew of the *Saxon*, taken before a magistrate at Cape Town. From these it will be seen that Mr. Hammond was in error in supposing the wool with which the *Saxon* was laden had been taken from the *Sea Bride*, as Captain Baldwin, of the United States steamer *Vanderbilt*, appears to have made the seizure on the ground that the wool had been landed from the *Tuscaloosa*.

The *Tuscaloosa* is stated in the newspapers to have been a prize taken by the Alabama when her name was *Conrad*. She had been captured a considerable time previously on her voyage from Buenos Ayres to New York, and was taken into Simon's bay, where she was received by the colonial authorities with all the privileges of a confederate man-of-war, notwithstanding that objection was taken by the United States consul that she had not been duly condemned by a prize court. Be this as it may, we have ascertained that the *Saxon* arrived at Angra Pequena from Ascension, and loaded the wool from the shore; and assuming the fact that it had formed part of the *Tuscaloosa's* cargo, we are advised that this does not justify the capture of the *Saxon*, even though a claim to the wool should be substantiated in the New York prize court.

We would further respectfully call your lordship's attention to the circumstances attending the murder of the chief mate, which are of such a nature as we doubt not will demand the serious attention of her Majesty's government.

In reply to Mr. Hammond's inquiry as to the coals seized by the *Vanderbilt*, (which question, as your lordship will see, is quite apart from the seizure of the *Saxon* and murder of the mate,) we have to inform your lordship that the coals were not conveyed in the *Saxon*, and on reference to our previous letter it will be observed that when seized they were stored on British territory at Penguin island.

We enclose copy of the claim for the coals, made on the United States government by Messrs. Anderson, Saxon & Co., and beg that your lordship will take such measures in support of the claim as may be deemed requisite.

We have, &c.,

SINCLAIR, HAMILTON & CO.

For enclosure 1 in No. 12, (depositions of the mate and crew of the *Saxon*), see enclosures 2 and 3 in No. 10.

[Enclosure 2 in No. 12.]

Particulars of claim of Messrs. Anderson, Saxon & Co.

The United States government to William Anderson, Saxon & Co.

1863.

Dr.

Nov. 23.—To 250 tons coal taken from Penguin island by the boats and crew of the United States steamer *Vanderbilt*, by order of Captain Baldwin, on the 31st October last, at £6 per ton..... £1, 500

CAPE TOWN.

No. 13.

*Earl Russell to Lord Lyons.*FOREIGN OFFICE, *January 30, 1864.*

MY LORD: Mr. Consul Archibald transmitted to your lordship, in his despatch of the 5th of January, a copy of the deposition made by the second mate of the Saxon, the case of which vessel forms the subject of my despatch to your lordship of the 21st of January, setting forth the circumstances under which the mate of that vessel was shot, on the occasion of her capture by Mr. Donohoe, an officer of the United States steamer Vanderbilt.

I have received this morning the opinion of the law officers of the crown, whom, as I acquainted you in my despatch, I proposed to consult with reference to that transaction, and I have now to state to you that if the deposition of the second mate, David Aitchison, contains the truth, the United States officer, Donohoe, ought to be tried without delay for the wilful murder of an innocent British subject; and your lordship will make a communication to that effect to Mr. Seward.

I transmit to your lordship further statements respecting that transaction, which I have received since the date of my despatch.

I am about to consult the law officers again on the general question relating to the capture of the Saxon, and the proceedings of the Vanderbilt in the matter, having received further information on the subject from the colonial office, and from the parties interested in the vessel; but in the meanwhile I must observe that the deposition of the second mate, Aitchison, although it throws no new light upon the cause of capture, imparts a still graver character to the case of the Saxon, which was, independently of it, one that called for a prompt and careful investigation of all the proceedings of the United States steamer Vanderbilt in regard to that vessel.

I am, &c.,

RUSSELL.

No. 14.

Messrs. Sinclair, Hamilton & Co. to Mr. Hammond.—(Received February 3, 1864.)

11 ST. HELEN'S PLACE,

London, February 3, 1864.

SIR: With reference to the conversation Mr. Hamilton had with you last week on the subject of the coals taken from Penguin island by the United States steamer Vanderbilt, when you expressed a doubt as to whether the island was British territory, we have to say that we are informed on good authority that a man-of-war was sent (we believe towards the end of 1861) to take possession, and the British flag was hoisted in due form. Furthermore, the colonial government granted a lease of the island, or a portion of it, to Messrs. Granger and Co., merchants, Cape Town, who have ever since occupied it and carried on business there. Under these circumstances we trust Earl Russell will support Messrs. Anderson, Saxon & Co.'s claim on the government at Washington, for the value of their coals seized in so outrageous a manner by the Vanderbilt.

We have, &c.,

SINCLAIR, HAMILTON & CO.

No. 15.

*Mr. Hammond to Mr. Elliot.*FOREIGN OFFICE, *February 5, 1864.*

SIR : I am directed by Earl Russell to transmit to you, to be laid before the Duke of Newcastle, the accompanying copy of a letter from Messrs. Sinclair, Hamilton & Co., stating their reasons for believing Penguin island to be British territory; and I am to request that you will move his grace to inform Lord Russell what answer should be returned to Messrs. Sinclair, Hamilton & Co.

I have, &c.,

E. HAMMOND.

No. 16.

*Lord Lyons to Earl Russell.—(Received February 7.)*WASHINGTON, *January 26, 1864.*

MY LORD : In a despatch dated the 23d ultimo, Mr. Consul Archibald reported to your lordship the arrival at New York of the British bark Saxon in charge of a prize crew from the United States steamer Vanderbilt, and in a despatch dated the 5th instant Mr. Archibald forwarded to your lordship a copy of a deposition made before him by the second mate of the Saxon, from which it appears that the first mate, Mr. James Gray, had been fired at and killed by a Mr. Donohoe, one of the officers of the Vanderbilt.

On being informed that the Vanderbilt had arrived at New York, I thought it right to address a note to Mr. Seward, enclosing a copy of the deposition, and expressing my expectation that the government of the United States would immediately take measures to investigate this shocking occurrence, and to render prompt and effectual justice in the case. I have the honor to enclose a copy of the note.

I have, &c.,

LYONS.

[Enclosure in No. 16.]

*Lord Lyons to Mr. Seward.*WASHINGTON, *January 19, 1864.*

SIR : It is my painful duty to submit to you an extract from a despatch from her Majesty's consul at New York, and an authenticated copy of a deposition, which will direct your attention to the circumstances under which Mr. James Gray, mate of the British bark Saxon, was killed by an officer of the United States ship Vanderbilt, named Donohoe, at Angra Pequena, somewhat more than two months ago.

I do not doubt that the government of the United States will immediately take measures to investigate this shocking occurrence, and to render prompt and effectual justice in the case.

I understand that the Vanderbilt arrived at New York the day before yesterday.

Begging you to be so good as to send the authenticated copy of the deposition back to me,

I have, &c.,

LYONS.

No. 17.

*Mr. Elliot to Mr. Hammond.—(Received February 8.)*DOWNING STREET, *February 8, 1864.*

SIR: I am directed by the Duke of Newcastle to acknowledge your letter of the 5th instant, accompanied by one from Messrs. Sinclair, Hamilton & Co., in which they say, with reference to Penguin island, that they are informed on good authority that a man-of-war was sent towards the end of 1861 to take possession, and that the British flag was hoisted in due form, and a lease of the island, or a portion of it, granted to Messrs. Granger and Co., of Cape Town.

I am desired to acquaint you, in answer, that in the month of June, 1861, in pursuance of previous orders duly given for the purpose by the Queen's government, her Majesty's ship *Furious* proceeded to the island of Ichaboe and took possession of it, and hoisted the British flag, and that a lease of a considerable portion of that island was granted to the Messrs. Granger & Co. There would appear every probability, therefore, that this must be the proceeding of which a report has reached Messrs. Sinclair & Co. It is exceedingly unlikely that another man-of-war should have gone in the same year to another island, and have taken possession of it as a colony, without any knowledge of the fact at this department, and a lease has been granted there also to the same firm of Messrs. Granger, of Cape Town. The proclamation of the governor of the Cape of Good Hope, professing to annex Penguin island, was not issued until August, 1861, which was some months after the *Furious* took possession of Ichaboe. But in order to omit no means of seeking all possible information bearing on the present case, the Duke of Newcastle has written to inquire whether or not the statement which has been made by the Messrs. Sinclair & Co., about the occupation of Penguin island, is supported by any report in the records of the admiralty.

I am, &c.,

T. FRED'K ELLIOT.

No. 18.

*Messrs. Sinclair, Hamilton & Co. to Earl Russell.—(Received February 8.)*11 ST. HELEN'S PLACE,
London, February 8, 1864.

MY LORD: Referring to our letter of 29th January, as to the capture of the bark *Saxon* by the United States steamer *Vanderbilt*, we have now the honor to inform your lordship that the *Saxon*, at the time of capture, was at anchor within a mile and a half of Penguin island, British territory.

We have, &c.,

SINCLAIR, HAMILTON & CO.

No. 19.

*Earl Russell to Lord Lyons.*FOREIGN OFFICE, *February 11, 1864.*

MY LORD: I have to state to you that I approve the note which you addressed to Mr. Seward on the 19th of January, a copy of which is enclosed in

your lordship's despatch, No. 51, of the 26th ultimo, calling upon the government of the United States to investigate the circumstances under which Mr. James Gray, mate of the British bark *Saxon*, was killed by Lieutenant Donohoe, of the United States ship *Vanderbilt*.

I am, &c.

RUSSELL,

No. 20.

[*Mr. Elliot to Mr. Hammond.*—(Received February 12.)

DOWNING STREET, *February 12, 1864.*

SIR: With reference to the latter portion of my letter of the 8th instant, on the subject of the statement made by Messrs. Sinclair, Hamilton & Company, that they believed Penguin island to be British territory, I am directed by the Duke of Newcastle to acquaint you, for the information of Earl Russell, that the lords commissioners of the admiralty have stated that there is no document in their department to show that Penguin island, which is more than twenty miles south of Ichaboe, was visited by a ship-of-war in the year 1861, or that Captain Jones, of the *Furious*, called there on his way to take possession of Ichaboe.

I have, &c.,

T. FRED'K ELLIOTT.

No. 21.

Earl Russell to Lord Lyons.

FOREIGN OFFICE, *February 15, 1864.*

MY LORD: I stated to you in my despatch of the 30th January that I was about to consult the law officers on the further papers which, since the date of my despatch of the 21st of January, had been communicated to this office in the case of the capture of the *Saxon* by the United States steamer-of-war *Vanderbilt*.

I now send to your lordship copies of such of those papers as it is necessary that you should have in your possession.

The conclusions to which, after consulting the law officers of the crown, I have come on the several points in this case are as follows:

1. As regards the capture of the *Saxon*, as *Angra Pequena* is not a British possession, but would seem to be a deserted spot, and, as the proclamation of Governor Grey, of the 12th of August, 1861, purporting to extend the jurisdiction of the crown over Penguin island, was not previously authorized, and has not since been confirmed by her Majesty, no violation of neutral or British territory appears to have taken place, and the jurisdiction of the United States prize court could not be contested on the assumption of such violation having been committed.

It seems, moreover, to have been admitted, by one of the owners of the *Saxon* to Governor Wodehouse, that the vessel had been actually engaged in taking on board part of a prize cargo landed from the *Tuscaloosa*, for the purpose of conveying it to market as the property of, and on account of, Captain Semmes, of the *Alabama*.

Under these circumstances her Majesty's government see no grounds for seeking to withdraw the case from the jurisdiction of the prize court.

2. As regards the murder of the mate of the Saxon, I have already instructed you, by my despatch of the 30th January, to express to Mr. Seward the opinion of her Majesty's government that the officer of the Vanderbilt, by whom that murder was committed, should be brought to trial without delay; and you will further state to the American minister that pecuniary compensation to the widow ought to form part of the redress which the government of the United States should make for this atrocious act of their officer.

3. As regards the coal taken by the Vanderbilt from Penguin island, her Majesty's government cannot doubt that the government of the United States will immediately make to the owners thereof full compensation for the value of the coal, and for the loss they may have sustained in consequence of the violent act of the commander of the Vanderbilt in appropriating it for the use of that vessel; but you will not fail to call the serious attention of Mr. Seward to the proceeding of the United States officer, for which no justification or excuse can be discovered in any reports which have reached her Majesty's government in regard to those matters which form the subject of this despatch.

I am, &c.,

RUSSELL.

No. 22.

Lord Lyons to Earl Russell.—(Received February 16.)

WASHINGTON, February 1, 1864.

MY LORD: I have the honor to enclose a copy of a note from Mr. Seward, acknowledging the receipt of the note respecting the killing of Mr. James Gray, first mate of the Saxon, a copy of which was transmitted to your lordship with my despatch of the 26th ultimo.

I have also the honor to enclose copies of a despatch from Mr. Consul Archibald and its enclosure, referring to this shocking event, and reporting the arrival of an agent to protect the interests of the owners in the judicial proceedings at New York concerning the capture of that vessel.

I have, &c.,

LYONS.

[Enclosure 1 in No. 22, Mr. Seward to Lord Lyons, printed elsewhere in this volume.]

[Enclosure 2 in No. 22.]

Consul Archibald to Lord Lyons.

NEW YORK, January 25, 1864.

MY LORD: Referring to my despatch of the 5th instant, I have the honor to report to your lordship that Stephen Shephard, master of the bark Saxon, has arrived at this port from Cape Town, to protect the interests of the owners of the vessel who, having forwarded a power of attorney to Mr. Charles Edwards to represent them, my interposition on their behalf has been rendered unnecessary.

I am informed by Captain Shephard that the evidence of himself and of his crew, in reference to the capture of the Saxon, and the shooting of the chief mate of that vessel, was taken in due form at Cape Town, and transmitted to England by her Majesty's ship Gorgon, which sailed from Cape Town about the last day of November.

I transmit, herewith enclosed, a copy of a letter this day received by me from Mr. Charles Edwards, the counsel for the claimants. In reference to the question of the seizure of the Saxon while in British waters, (if the fact be so,) I presume instructions from her Majesty's government will be received by the mail steamer China, due at this port in the course of the present week. Meantime, any interposition on this ground of claim, it appears to me, would be premature, and, indeed, without any evidence on which to base it.

I have not as yet been able to trace the steward of the Saxon.

I have, &c.,

E. M. ARCHIBALD.

[Enclosure 3 in No. 22.]

Mr. Edwards to Consul Archibald.

NEW YORK, January 24, 1864.

SIR: Permit me to ask whether the British government has sent on any instructions to claim restitution of the British bark Saxon, seized by the United States steamer Vanderbilt, at Angra Pequena, Africa, which place I believe belongs to an independent chief, named David Christian, and is close upon Penguin island, (within two miles,) the latter being, as I suppose, British; and if so, then the Saxon was seized in neutral British waters.

I am retained by the owner of the Saxon, but consider he individually cannot take the benefit of seizure in neutral waters, and that the government whose territory has been infringed can alone do so, and therefore it is I respectfully ask the above.

I have had to interpose the best claim I could; which claimants of cargo are pressing for an adjudication.

If the British government really intends to demand or intervene, then there is no time to be lost.

You were so obliging as to allow me a copy of an affidavit made by the second mate of the Saxon, taken before you, showing a seeming wilful shooting of her first mate by an officer of the Vanderbilt, and I am trying to make use of it. But as this deposition was not sworn to before any United States judicial officer, it really cannot be used as evidence.

I have, &c.,

CHARLES EDWARDS.

No. 23.

Lord Lyons to Earl Russell.—(Received February 17.)

WASHINGTON, February 5, 1864.

MY LORD: With reference to my despatches of the 26th ultimo and of the 1st instant, I have the honor to transmit to your lordship copies of further correspondence relative to the killing of Mr. James Gray, mate of the British bark Saxon, by an officer of the United States ship Vanderbilt.

Your lordship will perceive that a court of inquiry has been convened at Boston, for the purpose of investigating this unhappy occurrence, and that I have informed the United States government that Mr. Shephard, the late master of the Saxon, is at New York, and have suggested that he should be summoned to give evidence before the court.

I have, &c.,

LYONS.

[Enclosure 1 in No. 23, Mr. Seward to Lord Lyons, dated February 3, 1864, published elsewhere in this volume.]

[Enclosure 3 in No. 23.]

*Lord Lyons to Consul Archibald.*WASHINGTON, *February 4, 1864.*

SIR: I transmit to you a copy of a letter from the Secretary of the Navy to the Secretary of State, which was enclosed in a note from the Secretary of State, which I received last evening. Immediately after it reached me, I despatched to you the following telegram:

"Secretary of State informs me that a court of inquiry is now assembled at the navy yard, Boston, to investigate the killing of the mate of the Saxon, and that if there be any material witness in the United States, he will be allowed ten cents per mile for his travelling expenses, and two dollars per diem during his attendance. Ought not Captain Shephard to attend?"

I am, &c.,

LYONS.

[Enclosure 4 in No. 23.]

Consul Archibald to Lord Lyons.

(Telegraphic.)

NEW YORK, *February 4, 1864.*

I think it sufficient to notify the government that Shephard is here. He will attend and give evidence if required on receiving a summons for that purpose

[Enclosure 5 in No. 23.]

*Lord Lyons to Mr. Seward.*WASHINGTON, *February 5, 1864.*

SIR: With reference to the letter from the Secretary of the Navy, which you did me the honor to communicate to me with your note of yesterday, I hasten to inform you that Mr. Stephen Shephard, who was master of the Saxon when Mr. James Gray met with his death on board that vessel, is now at New York, and would doubtless be able to give very material evidence before the court of inquiry at Boston; and I have the honor to suggest to you to cause him to be summoned to attend the court.

He can be heard of at her Majesty's consulate, at New York.

I have, &c.,

LYONS.

No. 24.

*Messrs. Sinclair, Hamilton & Co. to Earl Russell.—(Received February 17.)*11 ST. HELEN'S PLACE, *London, February 17, 1864.*

MY LORD: Referring to our letters of 4th and 29th January and 3d instant, we have again the honor to request your lordship's attention to the subject of the coals belonging to Messrs. W. Anderson, Saxon & Co., taken from Penguin island by the United States steamer Vanderbilt.

We have to state in the first place that Messrs. Anderson, Saxon & Co. had agreed to supply the Vanderbilt, and had commenced putting coals on board

in Table bay before she left for Angra Pequena, but the colonial authorities stopped the supply because the Vanderbilt had been previously coaled (also by Messrs. Anderson, Saxon & Co.) within the prescribed time.

It will be seen from the deposition of Mr. Shephard that Captain Baldwin was told at the time that the island was British territory, when he replied, "I cannot help it; I want coal and must have it." And no doubt the coal he appropriated from Penguin island was a very seasonable supply.

Observing that a question has been raised as to whether Penguin island is British territory, we beg to enclose copy of Sir George Grey's proclamation, dated 13th August, 1861, which we procured from the file at the colonial office, Downing street. It will be seen that the proclamation runs that her Majesty's dominion and sovereignty was to take effect forthwith, and in pursuance of this a lease was granted in August, 1861, of Penguin island (and other islands adjacent) to certain British merchants, who have occupied the same ever since in the undisturbed exercise of their rights as lessees, which had previously been disputed; the proclamation, however, was subject to "her Majesty's gracious confirmation and disallowance."

The coals were placed on Penguin island by Messrs. Anderson, Saxon & Co., in the full confidence that their property would be under the protection of the British flag; and if it be true, that by some oversight the proclamation never was confirmed, neither was it disallowed, and up to the present time the islands in question have been treated as British territory by the government authorities at the cape.

We therefore submit that it would be a gross injustice if Messrs. Anderson, Saxon & Co. are to be deprived of all protection for their property in consequence of this oversight, and trust your lordship will support the claim which has been made upon the United States government.

We have, &c.,

SINCLAIR, HAMILTON & CO.

[Enclosure in No. 24.]

Extract from the Cape of Good Hope government Gazette of August 13, 1861.

PROCLAMATION.

By his Excellency Sir GEORGE GREY.

Whereas the island of Ichaboe was, on the 21st day of June last past, taken possession of for and in the name of her Britannic Majesty Queen Victoria, and declared a dependency of the Cape of Good Hope; and whereas it is expedient that, subject to the pleasure of her Majesty in that behalf, her dominion shall also be declared over a cluster of small islands or rocks adjacent to the said island of Ichaboe:

Now, therefore, I hereby proclaim, declare and make known, that the sovereignty and dominion of her said Britannic Majesty Queen Victoria shall be, and the same are hereby declared, over the following islands or rocks adjacent to Ichaboe—that is to say, Hollamsbird, Mercury Long island, Seal island, Penguin island, Halifax, Possession, Albatross Rock, Pomona, Plumpudding and Roast Beef, or Sinclair island.

This proclamation of her Majesty's sovereignty and dominion to take effect forthwith, but to be subject to her Majesty's gracious confirmation and disallowance.

God save the Queen.

Given under the public seal of the settlement of the Cape of Good Hope this 12th day of August, 1861.

G. GREY, *Governor*.

By command of his excellency the governor :

RICHARD SOUTHEY,
Acting Colonial Secretary

No. 25.

Mr. Hammond to Messrs. Sinclair, Hamilton & Co.

FOREIGN OFFICE, *February 20, 1864.*

GENTLEMEN : I am directed by Earl Russell to acquaint you that the matters arising out of the seizure of the British vessel *Saxon*, by the United States man-of-war *Vanderbilt*, to which you called his lordship's attention in your several letters of the 4th and 29th of January, and 3d, 8th, 12th, and 17th instant, have been fully considered by his lordship in communication with the law officers of the crown, who also had before them the information on the same matters which had reached her Majesty's government from other quarters.

The questions arising out of this transaction are three in number :

1. The seizure of the vessel.
2. The death of the first mate.
3. The coals taken by the *Vanderbilt* from *Penguin* island.

As regards the first question, I am to state to you that *Angra Pequena* not being a British possession, and the proclamation of Governor Grey, purporting to extend the jurisdiction of the British crown over *Penguin* island, not having been previously authorized or subsequently recognized by her Majesty, there exists no ground for seeking to withdraw the case of the *Saxon* from the jurisdiction of the prize courts in the United States.

As regards the second question, I am to state to you that Lord Lyons has been instructed to express to the government of the United States the opinion of her Majesty's government that if the facts deposed to by second mate Aitcheson are true, the officer who killed the first mate has been guilty of wilful murder, and should be brought to trial without delay. And it appears from despatches received from Lord Lyons, that, without waiting for instructions, his lordship at once represented the case to the United States Secretary of State, and has received from him an assurance that a court of inquiry would be immediately held on the matter.

Lord Lyons has further been instructed to apply to the government of the United States for pecuniary compensation to the widow of the deceased.

As regards the third question, Lord Lyons has been instructed to state to the government of the United States that her Majesty's government cannot doubt that full compensation will be immediately made to the owners for the value of the coal and for the loss which the owners may have sustained by reason of its seizure.

I am, &c.,

E. HAMMOND.

No. 26.

Earl Russell to Lord Lyons.

FOREIGN OFFICE, *February 20, 1864.*

MY LORD : With reference to my despatch of the 15th instant, I transmit to you herewith a copy of a further letter from Messrs. Sinclair, Hamilton & Co.

respecting the coals taken by the United States steamer Vanderbilt from Penguin island, together with a copy of a letter which I have caused to be addressed to them in reply to their various letters on the case of the Saxon, of which copies have been sent to your lordship.*

I have submitted the letters from these gentlemen to the law officers of the crown, and in conformity with their opinion I have to repeat to your lordship that her Majesty's government consider that the owners of the coals are entitled to full compensation for the unlawful seizure of their property by the commander of the Vanderbilt; and further, that your lordship should address to Mr. Seward a direct remonstrance against the violent act of which that officer was guilty in seizing the coals.

I am, &c.,

RUSSELL.

No. 27.

Earl Russell to Lord Lyons.

FOREIGN OFFICE, *February 20, 1864.*

MY LORD: With reference to my previous despatch of this day's date, I enclose for your information copies of further papers,† as marked in the margin, relative to the case of the Saxon.

I am, &c.,

RUSSELL.

No. 28.

Earl Russell to Lord Lyons.

FOREIGN OFFICE, *February 20, 1864.*

MY LORD: I transmit to you herewith a statement made to the solicitor of the treasury by Horace Carrew, late a seaman on board the Saxon, respecting the murder of the chief mate of that vessel by an officer of the United States steamer Vanderbilt.

This statement, in the opinion of the law officers of the crown, bears on the face of it evident signs of truthfulness, and throws more light upon this unhappy transaction than any of the statements previously in the possession of her Majesty's government, and your lordship will make it known to Mr. Seward.

Steps will be immediately taken with the view of sending Carrew to the United States in order that his evidence may be taken on the inquiry which, as stated in your lordship's despatch of the 5th instant, is to be held at Boston for the purpose of investigating this unhappy occurrence; and I have reason to expect that Aitcheson, the second mate of the Saxon, whose deposition was taken by Mr. Consul Archibald, will be forthcoming, so as to admit of his proceeding to New York by the middle of next week.

I am, &c.,

RUSSELL.

* Nos 24 and 25.

† Nos 14, 15, 17, 18, and 20.

[Enclosure in No. 28.]

Deposition of Horace Carrew.

Horace Carrew, native of St. Helena, aged 21. Nearly all my life at sea. Was a sailor five years ago. In 1862 I was a seaman before the mast in the *Pioneer*, of London, bound to Natal. We were there wrecked, and I worked my way to Cape Town. At Cape Town I shipped in the *Saxon*, on the 17th of January, 1863. We were to take cattle and sheep from the cape to Ascension for her Majesty's government. Shortly after that day we sailed, fully laden with cattle and sheep, and forage for their support on the voyage and at Ascension. We had no other cargo. We went to Ascension, returned to the cape, took a similar cargo for Ascension, and the same again. It was on the third trip (backward from Ascension) that the *Saxon* was taken. We were coming back in ballast. We got as far south as the cape, and were bound there, (as far as the crew thought,) and then we turned across the southeast trades. We knew then that we were not bound to the cape, but we didn't know where. The first land we sighted was Possession island, just above (i. e. to south of) Angra Pequena. We went into the bay and anchored. Two or three days after we went up another little bay, at the head of this big bay. We stayed eleven or twelve days painting the ship. Then we began to take in a lot of bales of skin and bales of wool from shore. They were on the rocks; there are no houses there. A small schooner (an Englishman—the *Atlas*, of Cape Town—I knew the vessel) had come down when we had finished painting, and put three or four men ashore with provisions and a boat, and these men rolled the bales down to the beach and put them in our boats, and we shipped them. On the 30th or 31st October we had finished loading the vessel, and the boat was coming off with the planks and ropes that we had taken, (to make a sort of stage on shore,) when we saw a large steamer rounding the point at the bottom of the large bay, and she anchored. She lowered two boats with armed crews. One she sent to Penguin island, a little island in this bay, (where there was a lot of coals,) and the other boat she sent to us. She was lying about two miles from us. The crew came up alongside and two officers boarded us. The senior officer went down into the cabin with our captain, (Captain Shepherd.) I was on deck; they remained about five minutes below. I won't be certain whether the other officer remained on deck or went below with the other. I saw the senior officer with our captain coming from the companion with a number of papers in his hand, and they walked together to the after-hatch. The officer ordered our captain to have it opened. (I heard this.) It was opened by myself and another. The officer said, "What do you call that, captain?" (pointing to a portion of the cargo.) The captain said, "Well, I don't know—a mixture of cotton and wool, or something. All I know is that I have come here to take it in." The officer said, "That will do. I'll take these papers, captain, on board the *Vanderbilt*, and I'll leave this officer" (pointing to the junior officer, Mr. Donaghan) "in charge." He then turned to Mr. Donaghan himself, and said, "Don't allow that anchor to be weighed." Our captain said to him, "My ship is quite ready for sea; and I intend to go this afternoon." The officer said, "You can't; I've got your papers." Our captain said he would go, papers or not, as he was quite ready for sea. The captain said to us, "Go to dinner, men;" and the officer got into the boat, which was lying on the port side, about midships, and went aboard the *Vanderbilt*, leaving Donaghan on board. We had begun weighing before the officers came on board, so as to have less chain to take in when we did start. We went to dinner, and after dinner—say an hour—we went to work, securing spars and water-casks and making everything fast. In less than half an hour after we had begun this, another boat came from the *Vanderbilt*. Another officer came on board with the boat's crew, about a dozen, and they began battering

about the deck, apparently taking charge of the ship. Our captain told us not to interfere. (Our crew consisted of twelve altogether—captain, mate, second mate, cook, boy, who acted as steward, carpenter, and six men.) We knocked off work when the captain told us. We did not interfere with them in any way. Some of us were on deck and others in the forecabin, when the men on shore (who had been helping us to load) came off to us in their boat, bringing fish. They asked our captain if they could have any meat. The captain asked the senior American officer if they could have any. The officer said, "Yes." The men from the boat went forward to where the meat was kept, (in tubs between the forecabin and the galley.) One of the Vanderbilt men came and told the senior officer that these men were taking all the meat out of the ship. They were taking too much, I suspect. The officer said, "I'll be damned if they shall have any, then." Our captain was standing by, and said, "I'll be damned if they shan't, then." Our captain went to where the men were trying to pass the meat over the ship's side into the boat, and the men said to him, "What shall we do here? they won't let us take it." The captain said, "Heave it into the boat; if they stop you, I can't help it." The American officer had followed Captain Shepherd. He said to Captain Shepherd, patting him on the shoulder, "You go aft, my fine fellow; you are giving too many orders here; or I'll soon put you where the dogs won't bark at you;" (tapping with his other hand on his revolver in his belt.) The captain went aft, (I believe he was confined to his cabin, but I didn't hear the order given myself; I was told that a sentry was put over him with a cutlass.) The chief mate, Mr. James Gray, was forward at this time. I suppose that somebody had told him that the captain was confined to his cabin, for he was coming aft to speak to the captain (as far as I could see.) There is a low poop, and a short ladder of three steps going up from the deck to the poop on each side of the raised top of the cabin, and from the poop you go down the companion into the captain's cabin. Mr. Gray had got two steps up the ladder, on the port side; his head was turned on one side looking towards the shore, (which was about two hundred yards off.) The American senior officer was standing on the raised top of the cabin, having a look-out over the whole of the deck. Donaghan was standing on the poop, just above the three steps, on the port side, where Mr. Gray was coming up. When he had got up these two steps, Donaghan called out, "Go down!" When Gray heard this, he turned his head and looked up at Donaghan, and Donaghan repeated the words, "Go down!" "Go down, or I'll shoot you!" He didn't give the mate time to go down or do anything; he spoke so quick, it was all done in a moment; there was no attempt to resist, or go on; there wasn't time. When he spoke the third time, "Go down," he put his left hand on Gray and pushed him. Mr. Gray fell back, wheeling round to save himself as he fell, and turning his face towards Donaghan, when Donaghan lifted his revolver and shot him, and the poor man fell back dead, and never moved an eye. The bullet had entered above and a little behind the left ear, and went downward. He lay right on his back. I was seven or eight yards from him. I stepped forward with two of our men to pick him up, and the senior officer, who stood on the top of the cabin, sung out "Draw swords." His men drew their swords. They were all gathered about aft—a good lot of men. I am not quite sure whether another boat's crew had come by this time from the Vanderbilt. When the men had drawn their cutlasses they surrounded us, and presented their pistols at our breasts. They blackguarded us awfully, and asked one of the men whether we wanted to take the ship back. They drove us forward when they found that we didn't make any resistance. About five minutes afterwards I went aft with another man (W. Murray) to pick Mr. Gray up, who was still lying where he fell, with his head supported by our captain and our second mate. The captain (who I heard afterwards had rushed by the man at his cabin, when he heard the shot fire) held the mate's head in his lap, and looked up and said, "What did

you shoot my mate for?" Donaghan said, "I'm sorry for the man, but he should obey orders." Donaghan continued, "There's some damned humbug about that boat—five men came off, and there's seven going ashore," (pointing with his revolver towards the boat of the men who had come for the meat and were returning.) "We ought to go ashore and do for the bloody lot of 'em; they are all Alabama men; that's one of the Alabama's men, too, (pointing to the body of Mr. Gray.) He was very much excited at the time; he had his revolver cocked, flourishing it about every way. Mr. Gray's body was put down the after-hatch. The crew were told not to come aft, unless we spoke to one of the sentries, whom they placed all over the ship. It was nearly 2 p. m., perhaps, when Mr. Gray was shot. At 8 o'clock we were all sent below, and told not to come on deck, if we didn't want to be shot, without hailing the sentry first. They kept us below all night. In the forenoon next day our captain sent forward a slip of paper asking me (in pencil) to take account of everything that went on, as he was not allowed to write, and was closely watched. I made memorandums on papers (in pencil.) I don't know what became of the papers—left on board the ship, I suppose, but I think I must have destroyed them,—no, I must have taken them away with me, for in the vessel in which I went up to the Cape I copied the statements down from these papers. The copy that I made was given to one of the reporters of the paper when he came on board at Cape Town. I never saw it afterwards. I also signed, on board the *Lord of the Isles*, a combined statement which I drew up, and which was signed by myself, and Murray, and Cable. It was given up, I believe, to the governor or other authority at the Cape. The captain had it from us, and delivered it with his own to the port boat at the Cape. They kept us on board all that day, (the day after the murder.) In the afternoon, about dusk, they buried Mr. Gray. They brought a coffin from the *Vanderbilt*, put it into a boat, and took the captain, but none of us, and went ashore and buried the mate. We remained on board that night too. Next day we landed on the main land, all but the second mate (David Atcheson, of *Dundee*) and the cook; they were to go to New York. They landed us with fourteen or fifteen pounds of small biscuit and about five gallons of water. That day the *Saxon* went to sea. The *Vanderbilt* had weighed anchor, and had gone out in chase of a vessel, but she returned and went inside *Penguin* island and took the coals. The captain knew that there was a guano island about ten miles off. We walked across and waved to the people there, and they sent a boat and took us off. The island is close to the shore. The men that had come for the meat had gone there. We stayed on the island about two days, when the *Isabel* (an English schooner) came in and took us down to *Ichaboe*, another guano island. We partly loaded a brig there called the *Lord of the Isles*, and went further down in the schooner, with the brig, to *Hottentots' bay*, to fill up the brig, and then went in the brig to Cape Town. There was an investigation at the magistrates' court. I gave evidence, and the captain and the two men who were close to Mr. Gray when he was shot, William Murray and Richard Cable. We were sixteen days in Cape Town. Murray and Cable came home with me in the *Cambal*, but I don't know where they are—shipped in another vessel, I suppose; but I don't know. We came to London on the 6th February. I have been living since at my mother's, 3 New Terrace, Turner street, Stepney. I am looking for a vessel every day. I have told my story as a yarn. One day I was telling the story to a friend. A gentleman was present. He was a perfect stranger to me. I said that I was thinking of giving my evidence, as I heard that there was to be an investigation. He said, "You had better go to the secretary of the treasury." So I came here yesterday morning, and left my address.

TREASURY, February 19, 1864

No. 29.

*Earl Russell to Lord Lyons.*FOREIGN OFFICE, *February 24, 1864.*

MY LORD: With reference to my despatch of the 20th instant I have to state to your lordship that the seaman Horace Carrew will proceed to New York from Liverpool to-morrow morning by the Inman steam-vessel, and I have furnished him with a letter to Mr. Consul Archibald, who will report to you his arrival and take your directions in regard to him.

I enclose a copy of a further statement made by Carrew to the solicitor of the treasury.

Mr. Archibald is instructed as to the pecuniary allowances to be made to Carrew.

It seems doubtful whether the mate Aitcheson will be able to return to New York.

I am, &c.,

RUSSELL.

[Enclosure in No. 29.]

Statement of Horace Carrew.

TREASURY, *February 23, 1864.*

After Mr. Gray was killed (a few minutes) I heard the second mate (Aitcheson) tell the senior officer (Lieutenant Keith) from the Vanderbilt that he heard him (Keith) give the order to fire.

Keith said: "I did not." Aitcheson said, "By God, you did." Donaghan did not say one thing or the other.

I think that Aitcheson was mistaken. I didn't hear Keith give any such order, and I think I should have heard it if he did. I was near enough. There were only three of us at hand when Gray was killed. Murray and Cable were nearer than I. We ran forward when the man fell. There was nothing like a rush, or a show of violence, or threats of any sort. It would have been folly, indeed, for none of us had arms. I have heard that these skins were from Monte Video, the cargo of the Tuscaloosa, which the Alabama had captured, and that she had brought the cargo into this little snug spot, and I suppose that our captain had heard of it. He told Lieutenant Bell, of the Vanderbilt, (who first came on board,) that he was bound for Falmouth for orders; (I heard the captain of our vessel had so said in giving his evidence at the Cape.)

Mr. Seward to Mr. Adams; (same to Mr. Dayton, No. 501.)

No. 868.]

DEPARTMENT OF STATE,

Washington, March 8, 1864.

SIR: We hear that the Canada was partially disabled on her way to Halifax. Owing to this accident I am without any official information of European events of a date more recent than the 13th of February.

We have no official reports from General Sherman; but we have reason to believe that he has broken up all the railroads in western Mississippi, and thus given a new security to our occupation and control of the Mississippi river.

Our cavalry have made two bold and dashing expeditions, one in the west

and the other in the east. Although they have effected less than they hoped, the results attained are important. It is certain that Longstreet is retiring. The position we have gained in East Tennessee, so valuable in the great strategy of the war, seems to be thus relinquished to us by the insurgents. Their pretended congress has adjourned, after having adopted measures of an extreme character, by which all the property and all the people of the insurrectionary States are intended to be placed at the unrestricted control of the clan which remains at Richmond. Not time enough has elapsed to enable us to form a judgment whether these means will enfeeble or reinvigorate the insurrection. The election of governor in Louisiana was held upon the principles avowed in the President's proclamation of amnesty, and was attended with great success.

The latest news received from Mexico gives us reason to believe that the already reduced forces of the government are to be further demoralized by faction. It is said that Vidauri is disloyal to the republican government, and is demanding a resignation from the president, Juarez, with a view to the institution of General Ortega in his place, to be followed by a compromise with the French.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHAS. F. ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

[Extract.]]

No. 610.]

LEGATION OF THE UNITED STATES,

London, March 10, 1864.

SIR: Despatches from the department, numbered from 847 to 851, inclusive, have been received at this legation.

Under the instructions contained in No. 847, of the 17th of February, I have addressed a note to Lord Russell respecting the conduct of Mr. Butterfield, the British vice-consul at Key West. A copy is transmitted.

* * * * *

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,

London, March 8, 1864.

MY LORD: I regret very much to be obliged to make a representation to your lordship touching the repeated interference of Aubrey G. Butterfield, esq., her Majesty's vice-consul at Key West, for the protection of persons engaged in violating the regulations now establishing a blockade of certain portions of the United States, as well as the laws of the land.

I am informed that the first instance of the kind has been already brought to the notice of her Majesty's government, on the 28th of January last, through her minister at Washington. I am now instructed by my government to ask your lordship's attention to what appears to be a much more flagrant proceed-

ing. I have the honor to submit to your consideration copies of papers which go to prove that Mr. Butterfield has actually attempted to use his privilege as an officer in her Majesty's service to shelter a person who is a native citizen of the United States from the just consequences of his evil deeds. I am directed to request that an examination be made of these transactions, and if the allegations shall be found correct, that the vice-consul may be made sensible of the displeasure of her Majesty's government.

I pray your lordship to accept, &c., &c.,

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c., &c.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,

London, March 8, 1864.

MY LORD: I have received instructions from my government to express to you its thanks for the promptness and energy manifested by Admiral Augustus L. Kuper, of her Majesty's service, in tendering assistance to a vessel of the United States when in distress.

It appears that on the night of the 21st of October last, the United States sloop-of-war the Jamestown, while on the way up from Yokohama to Yeddo, in Japan, was run aground by the pilot. Upon hearing of this mishap Admiral Kuper immediately despatched one of his vessels, the Cormorant, to her relief. The Jamestown had been floated before the arrival of the Cormorant, but the act of courtesy and kindness was not the less appreciated by Captain Price, who commanded the vessel, and who has made a grateful report of the same to the department at Washington.

I pray your lordship to accept the assurances, &c., &c.,

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 611.]

LEGATION OF THE UNITED STATES,

London, March 10, 1864

SIR: * * * * *

I have the honor to transmit a copy of the Times of the 8th of March, containing a report of some remarks in Parliament the evening before, on certain topics connected with rebel operations on the ocean. * * * *

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

[From the London Times, March 8, 1864.]

"THE CONFEDERATE NAVY.

"HOUSE OF COMMONS, MARCH 7.

"Mr. LONG asked whether a ship belonging to the confederate navy would have the same right to search and make prize of an English vessel carrying con-

traband of war to a federal port that a federal war vessel would exercise in the case of a British ship carrying contraband of war to a confederate port; and, if not, whether such partiality in favor of one of two belligerent powers was reconcilable with the 'strict neutrality' professed by her Majesty's government.

"The ATTORNEY GENERAL said there could be no doubt whatever that a confederate vessel would have exactly the same right to visit, search, and capture a British vessel carrying contraband of war to a federal port as a federal vessel would to act in like manner to a British vessel carrying contraband to a confederate port, [hear;] but it should always be remembered that neither was entitled to make any such capture except for the purpose of taking such ship for adjudication before a competent prize court. [Hear, hear.]

"THE PAMPERO CASE.

"Mr. DALGLISH asked the under-secretary for foreign affairs whether the government were prepared to accept from the owners of the Pampero and other steamers seized by the government, on the plea that these vessels were intended for the confederate States of America, a similar assurance to that which the government have declared themselves satisfied with when given by the Danish ambassador. He wished to say, in addition, that the contract for the building of the Pampero had been cancelled before the seizure, and that she had since been offered for sale to her Majesty's government.

"Mr. LAYARD said the house would see that the cases were very different. The Danish minister, before proceedings were commenced, and wishing to spare the executive trouble, came forward and gave the fullest information with respect to the vessel which was being constructed for his government. In the case of the confederate vessels, subterfuge, not to use a stronger word, [hear, hear,] and every means of evading the law, were had recourse to, and now, as a last resource, her Majesty's government were asked to enter into an arrangement similar to that which had been accepted in the case of the Danish government. [Hear.] Under all the circumstances, her Majesty's government might fairly decline. Moreover, the word of the Danish minister amounted to a diplomatic guarantee, on which her Majesty's government had the utmost reliance. On the other side, he doubted whether any such engagement, upon which her Majesty's government could place similar reliance, could be given."

Mr. Adams to Mr. Seward.

No. 612.]

LEGATION OF THE UNITED STATES,
London, March 10, 1864.

SIR: I transmit herewith the copy of a resolution passed at a public meeting held at Blaydon in Durham, and likewise a copy of the Newcastle Daily Chronicle of the 4th instant, containing a report of the proceedings. They will not require acknowledgment.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

PUBLIC MEETING AT BLAYDON, ENGLAND.

"That in the election of President Lincoln, and in the principal acts of his administration—the abolition of slavery in the District of Columbia; the prohibition of slavery in the Territories; the recognition of the republics of Hayti and Li-

beria; the concession of the right of search for the suppression of the slave trade; the scheme of compensated emancipation, and the proclamation—this meeting recognizes successive triumphs of anti-slavery sentiments in the United States; rejoices in the prospect thus afforded of friendship between England and America, as well as of liberation to the enslaved; offers to the government and to the people of the loyal States the assurance of fraternal sympathy in their noble struggle, and requests the chairman to communicate this resolution to his excellency the American minister.

"Signed in behalf of the meeting,

"JOHN EMERSON, *Chairman.*"

[From the Newcastle (England) Daily Chronicle and Northern Counties Advertiser, Friday, March 4, 1864.]

ANTI-SLAVERY MEETING AT BLAYDON.

An anti-slavery meeting was held in the lecture-room, Blaydon, on Wednesday evening. The room was filled by an intelligent and respectable audience. Mr. John Emerson, in the absence of Mr. Joseph Cowen, jr., occupied the chair. Mr. Bright, M. P., who was expected to visit the north, was invited to preside at the meeting; and the following extract from his letter will be read with interest. Mr. Bright says: "It is quite out of my power at present to come to your proposed meeting. I dare not add to my engagements. I am glad to see that you are taking an interest in the American question. Public opinion is becoming more intelligent than it was some time ago. I wish you all success in your efforts."

The chairman in a brief speech alluded to slavery as the cause of the present conflict, and said that no one would convince him to the contrary.

Mr. James Eadie moved the following resolution: "That the revolt of the southern States of America against the federal government having avowedly originated in the determination not only to maintain but to extend slavery, and having been followed by the organization of a confederacy based upon the denial of human rights to the negro race, this meeting indignantly repels the assumption that the English people sympathize with a rebellion that thus violates every principle of political justice; or with institutions framed in defiance of the moral sense of civilized mankind, and which are an outrage upon the religion whose sanction has been claimed in their support." Mr. Eadie said he did not necessarily bind himself to believe in everything that President Lincoln and his administration had done. He was willing to admit that they were defective in some things, but they were right in the one needful thing, and that was to suppress and destroy slavery. [Applause.] The war that was now raging in America was to be deplored; but when they considered that it was on the one hand for freedom, and on the other for slavery, they were bound, as Englishmen, to use every means that lay in their power to encourage and help the right side, and that side was the north. [Cheers.] President Lincoln was worthy of the support of every true lover of freedom, for he believed a more feeling and sensitive President never occupied the presidential chair. [Cheers.] His sympathies were all for the north, and he was glad that so many of his neighbors were present that night to express sympathy with the negro race. [Applause.] He had great pleasure in moving the resolution he had just read.

Mr. J. A. Jackson, formerly a slave in South Carolina, and a man of color, seconded the resolution, and in a long and eloquent speech spoke of his birth and training, and the cruel treatment he had gone through. He gave touching pictures of the horrors of slavery, and how he escaped, and his flight from Charleston to Boston. He had great pleasure, he said, in seconding the resolution, for

no one knew more of the horrors of slavery than himself. The general character of the slaveholder was to work his slaves very hard, so that they might not get up in the night to raise an insurrection, or carry off cotton or corn to other masters who traded with slaves at night. The slaveholders lived upon their slaves just as the hawk and owl lived upon the hen and chickens. [Shame, shame!] He was sorry to say that England gave America slavery. England, by the use of her cotton, had mainly helped to continue it; and let but English sympathy be withdrawn from the south, and soon slavery there must fall. [Cheers.] It lay with Christian men and women to expose its evils, denounce its cruelties, lay open its horrors, and spare not its infamous immoralities. [Cheers.] The day of escape from bondage would come to all, as it has come to some, or he would not have been there—[laughter]—and surely their cry would be heard, and the hymn so long sung by the negroes of the south—

“O let my people go,”

be answered from heaven, perhaps even with a slaughter as great as that of the Egyptians, when they came onward with all the panoply of their chariots and horsemen to the Red sea, there to sink amid the waters.

Mr. J. P. Dalton moved the next resolution, as follows: “That in the election of President Lincoln, and in the principal acts of his administration—the abolition of slavery in the District of Columbia; the prohibition of slavery in the Territories; the recognition of the republics of Hayti and Liberia; the concession of the right of search for the suppression of the slave trade; the scheme of compensated emancipation, and the proclamation—this meeting recognizes successive triumphs of anti-slavery sentiments in the United States; rejoices in the prospect thus afforded of friendship between England and America, as well as of liberation to the enslaved; offers to the government and to the people of the loyal States the assurance of fraternal sympathy in their noble struggle, and requests the chairman to communicate this resolution to his excellency the American minister.” He had great pleasure in moving that resolution; in the first place, because he thought that the Lincoln government deserved it; and in the second place, because they were sympathizing with a race that had been kept down by tyranny. [Hear, hear.] No one deplored more than he (Mr. Dalton) did the present war that was now raging on the continent of America. He hated wars at all times; but this was a singular war. It was a war for freedom. [Cheers.] It was the death-blow of slavery. [Cheers.] It would also be the means of abolishing the slave trade in Cuba and Brazil. [Hear, hear.] We ought to blame our country for the curse of slavery—not America. We exported libertines, bankrupts, felons, and all kinds of low and lazy men, and to follow out their lust and appetite they began this traffic of human beings. Because they thought they had a right to deal in men who were inferior to themselves they were encouraged by the aristocracy of England. Dr. Hunt, and a few more English gentlemen, might say what they liked about the inferiority of the negro race; it was his (Mr. Dalton's) firm belief that they would make intelligent and industrious citizens. [Cheers.] He hoped the day was not far distant when every Englishman, and even foreigners, would join with one voice, and proclaim “freedom” all over the world. [Cheers.]

Mr. Robert Eadie, in seconding the resolution, gave a short sketch of the origin of the war, and said that he was sorry that so many Englishmen should sympathize with the Confederate States. So long as sympathy was given from England, the war was sure to be prolonged. He hoped, however, that slavery was a thing of the past. [Cheers.]

The chairman invited any gentleman that had an amendment to move, to do so. No one coming forward, the resolution was carried amidst great cheering.

After the usual votes of thanks to Mr. Jackson and the chairman, the audience quietly dispersed.

Mr. Adams to Mr. Seward.

No. 616.]

LEGATION OF THE UNITED STATES,
London, March 11, 1864.

SIR: I have the honor to forward herewith copies of parliamentary papers, headed "North America, 1864," Nos. 3, 4, and 5. These relate to the shipment of guns on the steamer Sumter, alias Gibraltar; to the pirate Alabama, and to the rebel iron-clad vessels built by the Messrs. Laird at Birkenhead.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

Communications between the collector of customs at Liverpool and Messrs. Klingender & Co., respecting shipment of guns on board the Gibraltar. (In continuation of papers respecting the vessel Gibraltar, presented to Parliament in July, 1863.)

No. 1.

Mr. Hammond to Mr. Hamilton.

FOREIGN OFFICE, *February 24, 1864.*

SIR: In the letter from Messrs. Klingender & Co., of Liverpool, to Captain T. A. Blakely, in London, dated Liverpool, June 26, 1863, which was published at page 8 of the papers headed "Vessel Gibraltar," presented to the House of Commons in the month of July, 1863, the following passage occurs: "This action on the part of her Majesty's government is based upon the suspicion that ultimately your fort guns may find their way into the southern confederacy; the collector," (*i. e.*, the collector of her Majesty's customs at Liverpool,) "in reply to our question, having informed us that if the fort guns were for the federal or northern government, no obstacles would be placed in the way of their being shipped; stating at the same time that such shipments to New York were of common occurrence."

As this passage has been twice quoted in the House of Commons, and has received no contradiction, Lord Russell requests that you will move the lords commissioners of her Majesty's treasury to have the goodness to ascertain from the collector of customs of Liverpool whether this statement correctly represents what he said to Messrs. Klingender & Co.; and if not, what he really did say.

I am, &c.,

E. HAMMOND.

No. 2.

Mr. Hamilton to Mr. Hammond.—(Received February 29.)

TREASURY CHAMBERS, *February 29, 1864.*

SIR: With reference to your letter of the 24th ultimo, I am commanded by the lords commissioners of her Majesty's treasury to transmit to you herewith a copy of a report, dated 27th ultimo, from the commissioners of customs, and of a letter from Mr. Price Edwards, collector of customs at Liverpool, dated 26th ultimo, relating to a statement alleged to have been made by him in regard to

the shipment of guns on board the ship Gibraltar, and I am to request that you will state to Earl Russell, with reference to Mr. Edwards's letter, that it appears to this board to correct the wrong interpretation put upon Mr. Edwards's statement by Mr. Klingender.

I am to observe that at the time of the conversation a clearance had been refused to the Gibraltar, because it was supposed that guns were about to be placed in her, not as merchandise, but as part of her armament, and intended to be used by her in hostilities; the refusal of the clearance being, however, only maintained pending further explanation.

In this state of things Mr. Klingender inquired from Mr. Edwards whether there would be any objection to the shipment of such guns to New York.

The meaning attached to this question by Mr. Edwards appears to have been that it related to guns shipped as merchandise, and not as part of an armament of a vessel of war, and he accordingly replied that there would be no objection, adding, that such shipments to New York were of common occurrence.

As soon as her Majesty's government was satisfied that the guns in question were not and could not be intended to form part of the armament of the Gibraltar, the clearance was immediately granted.

I am, &c.,

GEO. A. HAMILTON.

[Enclosure 1 in No. 2.]

Mr. Gardner to Mr. Hamilton.

CUSTOM-HOUSE, *February 27, 1864.*

SIR: With reference to your letter of the 25th instant, I am desired to transmit to you herewith, for the information of the lords commissioners of her Majesty's treasury, copy of a report, with its enclosure, which the board have received from their collector at Liverpool with respect to a statement alleged to have been made by him concerning the shipment of guns in the Gibraltar, and referred to in page 8 of the Parliamentary Return, date 20th July, 1863, No. 461.

I am, &c.,

F. G. GARDNER.

[Enclosure 2 in No. 2.]

Mr. Edwards to the commissioners of customs.

CUSTOM-HOUSE, *Liverpool, February 26, 1864.*

HONORABLE SIRS: I have this morning received your order of the 25th instant, enclosing the copy of a letter from the Foreign Office, dated the 24th instant, respecting a statement alleged to have been made by me concerning the shipment of guns on the Gibraltar, and directing me to report whether the statement correctly represents what I said to Messrs. Klingender & Co.; and if not, what I really did say.

I beg to report that, pursuant to your order of the 15th June last, I called upon Messrs. Klingender & Co. for an explanation as to the necessity of and reason for placing the guns and gun-carriages on board the ship in question, and placed a stop in the clearing of the ship until further orders. In consequence of this Mr. Klingender and his solicitor called upon me, and in the course of conversation inquired whether there would be any objection to the shipment of such guns to New York. Before replying to the question I sent for the principal office searcher, whose report I annex, and ascertained from him that shipment

of all kinds of arms and guns to New York was continually going on, and I then answered there would be no objection to the exportation of such guns to New York.

I may add that shipments of this kind to New York have been continually going on since the commencement of the war between the federal and confederate States, and that on the 16th last February I transmitted to Sir Thomas Fremantle, for the information of the War Office, an account of the shipment of arms, &c., to America, showing the quantity, description, and value. No opinion was given by me as to the facility of shipping arms, either for the federal or confederate government, as I had nothing to do with reference to the ultimate destination of the goods, but merely to reply to an inquiry whether they could be shipped to New York; nevertheless the inference was a very natural one, that if arms were forwarded to New York they would be for the use of the federal government, and hence possibly Mr. Klingender, whom I have not seen since, and of whom I had no knowledge previously, may have formed his conclusions. I herewith return the copy of the letter from the Foreign Office.

S. PRICE EDWARDS.

[Enclosure 3 in No. 2.]

Mr. Gould to Mr. Edwards.

SEARCHER'S OFFICE, *February 26, 1864.*

SIR: I beg to state that I remember being asked by you, in the presence of Mr. Hall, attorney, who had called to make inquiries respecting the shipment of two guns on board the vessel Gibraltar, whether arms were shipped to New York, to which I replied that they were.

An account of the number and value of rifles exported to ports in the United States of America during the year 1862, and openly cleared as arms, was forwarded to the board on the 16th February, 1863.

I beg to add that arms and other munitions of war are still being shipped to the United States.

H. GOOLD, *Assistant Surveyor.*

[The other enclosures, with Mr. Adams's No. 616, being correspondence respecting the Alabama and the iron-clad vessels at Birkenhead, the material portions thereof having been published in the United States diplomatic correspondence for 1863, are omitted.]

Mr. Seward to Mr. Adams.

No. 369.]

DEPARTMENT OF STATE,

Washington, March 11, 1864.

SIR: Your despatch of the 25th of February, No. 604, has been received. I infer from the division in the House of Commons, which it describes, that the negative policy of her Majesty's ministers in regard to foreign complications, although obnoxious to the criticism of their opponents and not entirely satisfactory to the ministers themselves, has a strong foundation in the instincts of the British people.

The London rumors of designs of French interference on our domestic affairs which you mention, have of course reached the United States. There seem to

be persons who believe anything—others who hope everything—and still others who fear everything from the Emperor of France. The number of either class here is not less than it is in Europe. We have heard no intimations from France of any such purpose as is here attributed to his Majesty, nor do we give credit to any. France, as well as Great Britain, seems unprepared to fully admit the decline of the insurrection. But I think we cannot be mistaken in the opinion that either of the nations would now propose to recede rather than to go farther in the line of favor to that unprincipled and calamitous attempt at revolution.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

C. F. ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 871.]

DEPARTMENT OF STATE,
Washington, March 11, 1864.

SIR: Your despatch of the 26th of February, No. 606, is before me. I learn from it that on the 25th of February you had a conversation with Earl Russell concerning the conflicts and collisions which, during the last few months, have arisen out of the abuses of neutrality by emissaries of the insurgents, and their abettors in British ports and provinces. It is an occasion of sincere regret that the conversation was necessarily a hurried one, and that it did not encourage us to expect a remedy for the evils which were discussed. This regret is increased by the announcement of two important events bearing upon the subject: First, that her Majesty's government have reversed their decision in the case of the *Tuscaloosa* and ordered her to be set at liberty, after having previously determined that she should be detained and given up to her American owners; and, secondly, that the judicial authorities of New Brunswick have released the pirates of the Chesapeake, who were arrested at St. John's, and have declined to give them up upon the requisition of this government under the treaty for extradition. The explanation which Lord Lyons has given us of the first decision is, that the law officers of the crown hold that although the *Tuscaloosa* might have been lawfully detained under orders which had recently been transmitted to the Cape, yet that, as she had once before those orders visited the Cape and had been permitted to depart, she might reasonably have supposed that she would be again received in the same way, and therefore that she ought not to have been seized and detained on this occasion, without previous notice of the new orders.

In regard to the other case, we learn that the decision which operates against us as a defeat of justice rests upon legal objections entertained by the court. Thus in these cases, as in those of the *Alabama*, the *Alexandra*, and the steam rams at Lairds' ship yard, we meet disappointments at every stage and constantly increasing embarrassments, resulting from judicial or executive interpretation of municipal law or the law of nations, under which active and restless enemies, without a port or lawful ship, save to themselves privileges as a naval belligerent in the neutral-ports of Great Britain.

The government of the United States cherish a profound respect for the government of Great Britain, and we entertain as much deference towards the judicial and legal authorities of that country as any aggrieved nation has ever conceded to the tribunals of the aggrieving party. But it can hardly be expected that such respect and confidence will be effective enough to induce a great commercial nation to acquiesce in and submit to a practical destruction of its navigation and to injurious and dangerous assaults upon its domestic peace,

in violation of all previous principles of maritime law. For this reason the government of the United States has not at any time thought it proper or wise to follow the British courts and counsellors of the crown like a private litigant, and successively modify its appeals and remonstrances in conformity to successive orders, decrees and judgments of British tribunals, which, as we think, necessarily partake of the uncertainty and caprice incident everywhere to the civil administration of justice. On the contrary, the United States have constantly referred themselves to the wisdom and magnanimity of her Majesty's executive government, who are exclusively charged by the British nation with the duty of regulating its intercourse and maintaining peace and harmony with foreign states.

It was seen, as we thought, early in the month of December last, that British ports at home and abroad, situate in a line that extends through a considerable portion of the earth, were becoming a base for operations hostile and dangerous to the United States. The constantly growing evidences of this painful condition of things have been presented by you to her Majesty's government, with a fullness and directness that have perhaps tried the patience of Great Britain. There was a special class of evidence having the same practical tendency which fell within the direct observation of her Majesty's government, namely, the multiplied complaints preferred to them by subjects of the Queen, of rigor and severity incurred by them at the hands of this government in maintaining the rights and interests of the United States. It has been respectfully submitted to her Majesty's government that the condition of things thus disclosed, which our experience shows to be little less than actual war, but which prudent statesmen may nevertheless truly regard as a prelude to unmeditated war, has resulted from no proceeding of the government or people of the United States against Great Britain or her subjects, but has, on the contrary, resulted from the policy which Great Britain has adopted and the proceedings which her subjects have practiced in regard to the United States. We remonstrated against that policy at every stage of its development, and expressed our conviction that it would be followed only by complications such as are now deplored. At the same time we have abstained from demanding or suggesting to her Majesty's government any particular form of remedy; and we rested satisfied with asking that government to do something which would relieve the painful situation into which the country had been brought. This course was adopted because it was thought to be one which was entirely consistent with the honor of the United States and with the respect which they owe to Great Britain. Earl Russell in his conversation with you, as we understand it, has given you no reason to hope that anything whatever will be done. The United States are not disposed to attribute this attitude to any sentiment of injustice or unfriendliness on the part of that government; they willingly assume that it results from the difficulty of fixing the national attention upon a new and annoying foreign question, and securing for it the serious consideration which is required. However this may be, it is necessary for us to accept the situation as it is, and to decide upon the further course of this government in regard to it. You are therefore informed that it will be agreeable to the President if her Majesty's government, instead of dismissing our complaint, will continue to hold it under consideration with a desire to find some change of policy which shall tend to prevent the further commission of injuries against the United States by British subjects or American insurgents going from British ports or possessions.

The President, while maintaining the rights and authority of the United States, and guarding against the dangers of the situation, will nevertheless continue to consider with candor and to act with justice upon the increasing mass of complaints which her Majesty's minister here is instructed to present for investigation and redress. The President will, moreover, exercise his influence to prevent the growth of injurious and retaliatory proceedings against Great

Britain. But he thinks it proper to say that he believes that he possesses no influence adequate to induce satisfaction or contentment with the condition of affairs as it now exists.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

C. F. ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 872.]

DEPARTMENT OF STATE,
Washington, March 13, 1864.

SIR: Your despatch of the 19th of February, No. 602, has been received. It brings back to us from London the rumors which are set afloat here of revival of the energies of the insurgents, and of military and political embarrassments on our own side, obviously with a design to effect sinister financial or political purposes. It has been our misfortune from the first to have the double task of correcting such reports here, and afterwards discrediting them in Europe. If desertions and divisions are signs of exhaustion, the insurgent cause is weaker to-day than it was a year ago. If growing unanimity in favor of the attitude of the government indicates improvement, the Union cause stands immeasurably better than it has done at any former period.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 873.]

DEPARTMENT OF STATE,
Washington, March 14, 1864.

SIR: Your despatch of the 18th ultimo, No. 599, has been received. In a despatch written you by this mail, I have treated the case of the Sea Bride in the light thrown upon it by recent events.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 875.]

DEPARTMENT OF STATE,
Washington, March 14, 1864

SIR: I have to acknowledge, with much satisfaction, the receipt of your despatch of the 18th of February last, No. 600, in which you inform me that Mr. P. McD. Collins has succeeded in obtaining from the British government the right to continue his proposed telegraphic communications from Russia through the English possessions in northwestern America.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 876.]

DEPARTMENT OF STATE,
Washington, March 14, 1864.

SIR: Your despatch of the 18th ultimo, No. 601, has been received. The President attaches much importance to the case referred to, in view of the existing state of relations with Great Britain and her provinces.

Your proceedings in this matter are approved.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

[Extracts.]

No. 618.

LEGATION OF THE UNITED STATES,
London, March 17, 1864.

SIR: I have to acknowledge the reception of despatches from the department, numbered from 852 to 858, inclusive; also, a printed circular, No. 46, dated the 6th of February; likewise, a telegram in cipher, dated the 1st instant.

* * * * *

The last week has been marked by one brief debate in the Commons on the relations with America, in which Mr. Roebuck led off. * * * *

A copy of the Times containing a report of the debate is included with those sent in my No. 619.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

Mr. Adams to Mr. Seward.

No. 619.]

LEGATION OF THE UNITED STATES,
London, March 17, 1864.

SIR: I have the honor to transmit copies of the Times of the 15th and 16th instant, containing a report of the proceedings in the House of Lords on the appeal in the Alexandra case. The decision will be given on an early day after the Easter recess.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

[From the London Times, Tuesday, March 15, 1864.]

THE ATTORNEY GENERAL VS. SILLEM AND OTHERS.

This case comes before their lordships on appeal from the court of exchequer chamber for the purpose of their considering whether the grave and momentous question raised as to the proper construction to be placed upon the foreign enlistment act is to be determined, or whether all the enormous expense incurred and the vast labor expended in the matter are to be thrown away in consequence of a technical difficulty. The technical point is, however, one of very considerable importance, being whether the learned judges of the court of exchequer have power, under the twenty-sixth section of the Queen's remembrancer's act, to make such rules as would give the advisers of the crown in this instance a right of appeal which they did not possess at the time the verdict of the jury at the trial was delivered in favor of the defendants. In consequence of the lord chief baron and the attorney general being unable to agree as to the effect of the direction of the former to the jury at the trial, it was found to be impracticable to present a bill of exceptions, and the alternative of moving for a new trial on the ground of misdirection was adopted. This rule the court of exchequer granted, but discharged upon argument. The attorney general had previously applied to the court of exchequer to exercise a power it was assumed the barons possessed, under the twenty-sixth section of the Queen's remembrancer's act, to make rules giving him a power of appeal to the court of exchequer chamber. In accordance with that application the court of exchequer drew up the following rules the day before the rule for a new trial was moved for:

"COURT OF EXCHEQUER, REVENUE SIDE.

"In pursuance of the provisions contained in the 26th section of the 22d and 23d of Victoria, cap. 21, entitled 'An act to regulate the office of Queen's remembrancer and to amend the practice and procedure on the revenue side of the court of exchequer,'

"It is ordered that the following provisions of the common law procedure act, 1854, be extended, applied, and adapted to the revenue side of the court of exchequer:

"1. In all cases of rules to enter a verdict or nonsuit upon a point reserved at the trial, if the rule to show cause be refused or granted, and then discharged or made absolute, the party decided against may appeal.

"2. In all cases of motions for a new trial upon the ground that the judge has not ruled according to law, if the rule to show cause be refused, or if granted be then discharged or made absolute, the party decided against may appeal, providing one of the judges dissent from the rule being refused, or when granted being discharged or made absolute, as the case may be, or provided the court in its discretion may think fit that an appeal should be allowed, provided that where the application for a new trial is upon matter of discretion only, as on the ground that the verdict was against the weight of evidence, no such appeal be disallowed.

"3. The court of error, the exchequer chamber, and the House of Lords shall be courts of appeal for this purpose

"4. No appeal shall be allowed unless notice thereof be given in writing to the opposite party or his attorney and the Queen's remembrancer within four days after the decision complained of, and such further time as may be allowed by the court or a judge.

"5. The appeal herein before mentioned shall be upon a case to be stated by the parties, (and in case of difference, to be settled by the court or a judge of the court appealed from,) in which case shall be set forth so much of the pleadings,

evidence, and the ruling or judgment objected to as may be necessary to raise the question for the decision of the court of appeal.

“ 6. When the appeal is from the refusal of the court below to grant a rule to show cause, and the court of appeal grant such rule, such rule shall be argued and disposed of in the court of appeal.

“ 7. The court of appeal shall give such judgment as ought to have been given in the court below, and all such further proceedings may be taken thereupon as if the judgment had been given by the court in which the record originated.

“ 8. The court of appeal shall have power to adjudge payment of cost, and to order restitution, and they shall have the same powers as the court of error in respect of awarding process and otherwise.

“ 9. Upon an award of a trial *de novo* by the court, or by the court of error, upon matter appearing upon record, error may at once be brought, and if the judgment in such or any other case be affirmed in error, it shall be lawful for the court of error to adjudge costs to the defendant in error.

“ 10. When a new trial is granted on the ground that the verdict was against evidence, the costs of the first trial shall abide the event unless the court shall otherwise order.

“ 11. Upon motions founded upon affidavits it shall be lawful for either party, with leave of the court or a judge, to make affidavits, in answer to the affidavits of the opposite party, upon any new matter arising out of such affidavits, subject to all such rules as shall hereafter be made respecting such affidavits.

“ 12. Notice of appeal shall be a stay of execution, provided that within eight days after the decision complained of, or before execution delivered to the sheriff, bail to pay the sum recovered and costs, or to pay costs when adjudged, be given in like manner and to the same amount as bail in error is required to be given under the rules of this court made on the 22d day of June, 1860, or as near thereto as may be applicable, provided such bail shall not be necessary to stay execution in cases where the appellant is the crown, the attorney general on behalf of the crown, or the Prince of Wales or the Duke of Cornwall for the time being.

“ The foregoing rules shall come into operation and take effect forthwith, and apply to every cause, matter, and proceeding now pending.”

Under the power of appeal given by these rules the attorney general brought the case before the court of exchequer chamber, which court, however, by a majority of four to three, rejected the appeal, on the ground that the barons had not power to make the rules in question. This appeal was then brought to reverse the judgment of the court of exchequer chamber.

The attorney general, the solicitor general, the Queen's advocate, Mr. Locke, and Mr. Thomas Jones appeared on behalf of the crown; Sir H. Cairns, Mr. Mellish, Mr. Karlake, and Mr. Kemplay represented the respondents.

The attorney general and the solicitor general addressed their lordships on behalf of the crown on Friday last.

Sir H. CAIRNS this morning addressed their lordships for the respondents, and in referring to the making of the rules in question by the court of exchequer, felt assured, notwithstanding he never doubted that the learned judges of the court of exchequer had been throughout actuated by no other motives than those of expediency, propriety, and wisdom, that their lordships would look narrowly to orders which, after one of the litigants had obtained a verdict and judgment, attempted on the application of the other side to give a right of appeal which might neutralize or upset that verdict and judgment. The attorney general had been unable to discover any trace of a precedent for such an act, and he was quite sure no private suitor would have had the audacity to ask a court to make general orders which would affect his particular case so as to give him a right of appeal which he had not before. Looking at the rules themselves, it

was difficult to lay the finger upon one which was properly framed. The framers appeared to have entirely misapprehended the meaning of the common law procedure acts, and to have drawn up the rules when laboring under that mistake. Entirely forgetting that the common law procedure acts had to deal with appeals from the whole of the different courts of record throughout the kingdom, they had in their third rule created three courts of appeal from the court of exchequer, viz: the court of error, the court of exchequer chamber, and the House of Lords, using the phraseology of the act in a case which the act did not contemplate. The Queen's remembrancer's act authorized certain clauses of the common law procedure acts to be applied and adapted to the revenue side of the court of exchequer, but the framers of the rules had not stated what rules they intended to be applied, or how they were to be adapted. They had left that part of their duty to be carried out by the litigants themselves. The barons of the exchequer might just as well have thrown those acts bodily upon the table, and said that they should be applicable to the revenue side of their court, and have left their suitors to find out in what way they were to be applied, according to their own particular whim, fancy, or interest. Before the passing of the common law procedure acts there was nothing applicable to the judgments of the courts of common law which could properly be called an appeal, and those acts had strictly defined the cases in which an appeal should be given. The legislature had carefully given a right of appeal in a particular way to litigate on the revenue side of the exchequer, and therefore there was no necessity for the extraordinary power claimed by the appellants. If the legislature had desired to give further powers of appeal, why had they not expressly given them? With regard to the 26th section of the Queen's remembrancer's act, it had been urged on behalf of the crown that this act had been framed for the purpose of giving the subject ample powers of appeal. Now, he contended the legislature had in view the advantage of both the crown and the suitor in not permitting such an appeal, as every principle touching the collection of the revenue could be decided in the convenient form of a bill of exceptions. It was greatly to the advantage of the crown that vexatious appeals should not be brought, and equally advantageous to the private suitor that the crown should not have a right of a multiplicity of appeals, one after another, as it was proverbial that an enlarged power of appeal was greatly in favor of the litigant with the longest purse, and who pursued his power of appeal with the greatest vigor.

The LORD CHANCELLOR. What actions are now brought on the revenue side of the court of exchequer as between subjects?

Sir H. CAIRNS. None, my lord.

The LORD CHANCELLOR. Then what do you mean by saying that there is the side of the subject to be looked at in the matter? Under what disadvantages do subjects on the revenue side of the exchequer labor that are not shared by subjects on the plea side of that court?

Sir H. CAIRNS was speaking as to the relative interests of the crown as plaintiff against the subject as defendant.

The LORD CHANCELLOR remarked that it was stated to be the intention of the legislature to make the practice on both sides of the court of exchequer as nearly as possible identical.

Sir H. CAIRNS thought that might be done without giving this right of appeal.

The LORD CHANCELLOR said that one of the propositions of the attorney general was that the 35th section of the common law procedure act of 1854 made a certain mode of appeal part of the practice of the plea side of the court, and then the practice of the plea side was transferred to the revenue side, thus transferring the right of appeal.

Sir H. CAIRNS said that would be found to be an equally fallacious contention with anything advanced by the other side. He then proceeded to put the

following propositions to the house: First, that, *prima facie*, a power to judges to regulate the proceedings of their court, or of applying proceedings to their court, so as to produce a certain effect upon the process, practice, and mode of pleading, would not confer a power of creating a new appeal, as such a power was ordinarily understood to refer only to the practice within the four corners of the particular court mentioned. Secondly, that, *prima facie*, such a power would not include the practice of the court of appeal or the court of error. Thirdly, that, *prima facie*, the power to regulate the practice of a particular court might, if there were already an existing right of appeal, and if there were certain steps in reference to such appeal to be taken inside that court, confer a power to regulate such particular steps in that court; but if there were not already in existence that right of appeal, he contended that such a power would not give a power of creating a right of appeal; and, fourthly, that the right of appeal was a right of such a character as that it must be given in plain and direct words.

Lord WENSLEYDALE remarked that the latter point was one that was mentioned by the learned judges of the court of queen's bench in giving their judgment in the court below, and he wished to know whether there was any express authority for that proposition.

Sir H. CAIRNS replied that there could be no appeal by inference; it must be clearly and expressly given by statute; at least the plain and ordinary construction of the statute must give such a right. The first point taken on behalf of the crown was that the words "process, practice, and mode of pleading," had received a peculiar construction, which made them applicable to the whole proceedings in any suit which might originate in a particular court, even when such case was taken before a court of appeal or of error. The learned counsel proceeded to contend that this construction was erroneous, as in several sections of the acts the proceedings in error or upon appeal were dealt with as being totally distinct from that of the original court. He would ask their lordships whether there was any instance in the history of legislation where a court was authorized to say whether there should be a right of appeal from its decisions or not? Undoubtedly it had been left to a court to say whether in a particular case there should be an appeal, but that was totally distinct from a general power of this kind. It was said that this power of appeal was one peculiarly liable to abuse, and, therefore, it required great discretion to be exercised in giving such a right. If that were the case, surely Parliament was the proper tribunal to exercise that discretion, and it was improbable that such a discretion should be left to the court of exchequer to exercise when it thought fit. It was said that without such right of appeal the practice on the plea side and on the revenue side of the court of exchequer could not be assimilated, but he contended that a right of appeal was not included in the "process, practice, and mode of pleading" on the plea side of the court. Unless it could be shown by some act of Parliament that the words "process, practice, and mode of pleading" included the practice of the court of appeal, he denied that they could apply the words in that comprehensive sense.

Lord ST. LEONARDS inquired whether the learned counsel contended that, under the terms of the 26th section of the Queen's remembrancer's act, the rules thereby authorized to be made were "alterable" as well as "applicable" from time to time.

Sir H. CAIRNS considered that although, under the first part of the section, it might well be contended that the rules were alterable, yet under the second part of that section he should agree with the attorney general that they were not alterable. He then argued that, even assuming all that the attorney general contended for, the barons of the exchequer had ample authority to make the rules creating an appeal, they could not be made applicable to a case in which the trial had taken place previously to making of the rules. Even in the case

of the common law procedure acts themselves, wherein it was expressly laid down that they were to apply to all cases then pending, it had been held that they did not apply to causes in which the trial had taken place. Therefore, the direction of the learned barons, that the rules were to take effect forthwith and to apply to all cases then pending, could not make them apply to the present case, in which the trial had already taken place.

The LORD CHANCELLOR. Did you take this point in the court below?

Sir H. CAIRNS said they had not taken that point below, because they found that the preliminary objection was sufficient. He now contended that inserting the words "that these rules shall apply to all cases now pending," were *ultra vires* of the court of exchequer. In conclusion, he desired to refer to a remark of one of the learned judges in the court below, wherein he regretted that so important a case should fail to be decided upon its merits in consequence of a successful technical objection. As the representative of his clients, who had incurred vast expense in defending themselves, whatever his feelings upon the matter might be, he must trust their lordships would not allow their judgment to be influenced by such an argument.

The LORD CHANCELLOR. We must give the same judgment as if the case only involved the sum of £20.

Mr. MELLISH, following on the same side, asked whether it could be supposed that the legislature had given to the barons of the court of exchequer power to make rules by which a verdict obtained at the trial should be set aside in a way in which it would not have been set aside at the time the trial took place. The rules did not act fairly between the parties, one of whom had obtained a verdict. One great principle laid down in the law-books was that verdicts must be held sacred, and in criminal matters a verdict could not be set aside. In all acts of Parliament great care was taken not to interfere in cases where a verdict had been returned for one party or the other.

Lord St. LEONARDS. You say that Parliament itself would not have passed so retrospective a rule as that made by the barons of the exchequer.

Mr. MELLISH said that was his contention. These rules had been applied for expressly, and had been granted expressly for the purpose of assisting one litigant to the prejudice of the other. As to the main point before their lordships—namely, the construction to be placed upon the 26th section of the Queen's remembrancer's act—he should contend that if the construction suggested by the other side were adopted, the barons of the exchequer might make such material alterations in the law as should alter the respective rights of the parties altogether. Thus, supposing they determined to apply the clause directly that all actions on the plea side were to be commenced by writ of summons to the revenue side, could it be contended that they could apply such a clause to the foreign enlistment act, or could they apply the power of issuing any injunction in such a manner? Yet if the one power were admitted, why should not the other be admitted? He contended that the power of assimilating the practice of the two sides of the court was strictly limited to cases wherein there existed an analogy between the two sides of the court, such as where there existed a right of appeal on both sides to make the practice respecting such rights of appeal as nearly identical as possible.

The LORD CHANCELLOR here interrupted the learned counsel by observing, that perhaps it would be better to resume the hearing of the arguments to-morrow. Did the learned attorney general think he should be able to conclude his reply by 12 o'clock to-morrow, as the house sat as a committee for privileges at that hour?

The ATTORNEY GENERAL, in reply, said he would condense his arguments as far as was compatible with his duty, and he thought he might probably conclude by that hour. Their lordships must recollect that a new point of some importance had been raised by the counsel on the other side before their lordships which had not been taken in the court below.

The LORD CHANCELLOR said the house did not wish to press the learned counsel; they merely asked for information.

The further hearing was then adjourned until to-morrow (this day) morning at half-past 10 o'clock.

[From the London Times, Wednesday, March 16, 1864.]

THE ALEXANDRA CASE.

HOUSE OF LORDS, *March 15.*

The noble and learned lords present this morning were the lord chancellor, Lord Cranworth, Lord St. Leonards, Lord Wensleydale, Lord Chelmsford, and Lord Kingsdown.

The attorney general vs. Sillem and others.

The arguments in this very important appeal from the court of exchequer chamber were resumed this morning. The question involved is, whether the 26th section of the Queen's remembrancer's act is to be so construed as to authorize the barons of the court of exchequer to give a new right of appeal. The chief points are, whether the words "process, practice, and mode of pleading" are to be held to comprehend the practice of a court of error; and whether, if that question were answered in the affirmative, the barons had power to make rules which were to apply to cases then pending—that is to say, to cases in which a verdict had already been obtained, but in which further proceedings were still possible, final judgment not having been given.

The attorney general, the solicitor general, the Queen's advocate, Mr. Locke, and Mr. Thomas Jones appeared on behalf of the crown; Sir H. Cairns, Mr. Mellish, Mr. Karlake, and Mr. Kemplay represented the respondents.

The attorney general and the solicitor general addressed their lordships on behalf of the crown on Friday last, and Sir H. Cairns and Mr. Mellish argued on behalf of the respondents yesterday.

Mr. MELLISH this morning concluded his address by citing numerous authorities to support his proposition that there can be no appeal without express statutory enactment, and that it could not be created by mere inference.

The ATTORNEY GENERAL, in reply, was desirous of removing from their lordships' minds any idea of the crown having acted with *animus* in this case. In the court of exchequer, when the difficulty as to preparing the former bill of exceptions arose, the court suggested that it would be better for him to move for a new trial, stating that an appeal would lie from their decision under the common law procedure acts, the court being then of opinion that the rules they had already made were sufficient for that purpose. His learned friend, the solicitor general, however, drew his attention to the fact that the rules then in existence were not sufficient to give a power of appeal. On his making a statement of the circumstances to the court of exchequer the learned judges requested him to look into the matter, and if the rules were not sufficient, in consequence of the great importance of the case, they would do all in their power to give an appeal, in order that the law upon the construction of the foreign enlistment act might be finally determined. In accordance with this request he had carefully looked at the various statutes, and the result of his examination was, that he considered himself justified in reporting to the court of exchequer that the rules then in existence were not sufficient to give an appeal, but that their lordships, under the provisions of the 26th section of the Queen's remembrancer's act, were empowered to make such rules as would give such a right. Upon this

their lordships drew up the rules in question, which were as much in favor of one party as of the other. He merely stated these facts to show that the crown had put no pressure on the court of exchequer in order to get an appeal in this particular case.

The LORD CHANCELLOR. We perfectly understand that to be the case. The pressure came from the court itself.

Sir H. CAIRNS explained that he had not the slightest intention of imputing any *animus* on the part of the crown. While attributing the very best possible intentions to all parties engaged in the matter, he merely said that, under the peculiar circumstances of the case, the respondents were entitled to have these rules narrowly looked at.

The ATTORNEY GENERAL then proceeded to reply upon the arguments adduced on the other side. He pointed out how little had been done by the legislature in the way of the application of the provisions of the common law procedure acts to the court of exchequer in the Queen's remembrancer's act, and how large and important was the power they had given to the barons to apply the provisions of those acts to the practice of their court, and this he considered would be a sufficient answer to the argument of the other side that the legislature would not leave so important a discretion as to creating an appeal to the judges of that court. He contended that the legislature had left a power to the barons of regulating the proceedings in error analogous to that now claimed for them respecting appeals, showing the confidence the legislature had in the discretion of those judges.

Lord ST. LEONARDS. And therefore gave them power to regulate something they did not mention.

The ATTORNEY GENERAL should contend that the legislature did mention the latter power in the general terms they made use of. Having touched upon several minor arguments made use of by the other side, he proceeded to show that the proceeding to error was well known to be matter of procedure in the court below, and that the case never left the jurisdiction of the court in which the cause originated, even when taken into a higher court upon appeal. With regard to the question as to the retrospective action of the rules, he contended that the new rules would justly apply to all proceedings in any cause subsequent to the passing of such rules. Now the rules did not apply to the verdict, but they did most undoubtedly apply to the motion for a new trial, which was made after the rules were issued.

At the conclusion of the arguments the lord chancellor said the house would take time to consider their judgment. Judgment deferred accordingly.

After the parties had left the bar of the house their lordships consulted for a considerable time, and at length the lord chancellor announced that on Thursday next the house would state on which day they would give judgment.

Mr. Adams to Mr. Seward.

No. 620.]

LEGATION OF THE UNITED STATES,

London, March 18, 1864.

SIR: I have the honor to transmit a copy of the Cork Daily Reporter, containing the proceedings in the crown court in the case of the men who were received in the steamer Kearsarge at Queenstown.

The elaborate effort of the prosecuting officer, aided by the presiding judge, to discourage the emigration to America by the use of the most extraordinary misrepresentations, is one of the marked features of this transaction. Inasmuch as the parties pleaded guilty, the case was easily brought to a conclusion. The

next step will be to try persons of much more influence, who will be aided by the active sympathy of friends and associates to escape a verdict. I have little expectation of a similar verdict in their case.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

Mr. Adams to Mr. Seward.

No. 621.]

LEGATION OF THE UNITED STATES,

London, March 18, 1864.

SIR: In connexion with your despatch, No. 806, of the 11th of January last, and mine numbered 584, of the 28th of the same month, and 590 of the 4th of February, I now transmit copies of a later note of Lord Russell, dated the 9th instant, on the same subject, and of my reply on the 15th.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD, &c., &c., &c.

Earl Russell to Mr. Adams.

FOREIGN OFFICE, *March 9, 1864.*

SIR: With reference to my letter of the 1st ultimo, I have now the honor to reply to your letter of the 20th of January, in which you enclose copies of papers which have come into the possession of the United States government, purporting to show that ships and cargoes intended to run the blockade have been purchased in this country on account of the so-styled confederate government. You state that this evidence furnishes another strong instance of the manner in which the insurgents habitually abuse the belligerent privileges which have been conceded to them by this country; and you say, that after such an exposure, all British subjects engaged in these violations of blockade must incur a suspicion strong enough to make them liable to be treated as enemies, and, if taken, to be reckoned as prisoners of war.

To this declaration her Majesty's government must reply that they are not prepared, on account of the exigencies or distresses of either belligerent, to assent to the introduction, to the injury of neutral states, of any alteration in the well-established principles of international law.

You are no doubt aware, as every American jurist must be aware, that it is not competent to a belligerent government to treat as prisoners of war the subjects of neutral states taken on board vessels (not long ships-of-war of the enemy,) endeavoring or alleged to be endeavoring to break the blockade, and it would be impossible for her Majesty's government to permit British subjects to be made exceptions to the general rules and practice of international law on this or any other subject.

I need scarcely remind you that the rights of visit and search and of blockade are belligerent rights which press with sufficient severity upon neutrals, and which, as her Majesty's government have already had occasion to observe in their correspondence with the United States government during the war, would be intolerable without a faithful and scrupulous observance, on the part of the belligerent, of his corresponding obligations.

It is obvious that her Majesty's government can in no way be responsible for the conduct of the confederate belligerent; and with reference to your statement that the confederates habitually abuse the privileges which have been conceded to them by Great Britain, I must beg leave to remind you that not only Great Britain, but every other neutral state, has of necessity recognized the confederates as belligerents, and has, therefore, of necessity conceded to them, not indeed "privileges," but the same "rights" which a neutral state is bound by international law to concede to all belligerents, and which Great Britain has conceded in the present war to the United States.

Her Majesty's government have, on previous occasions, expressed their regret that any of her Majesty's subjects should violate the blockade, and I repeat that regret most unreservedly on the present occasion; but it must be remembered that the blockade is one of most unusual proportions; that it severely affects the welfare of no inconsiderable portion of her Majesty's subjects, and that the penalty of confiscation and condemnation of British property, to a very large amount, has constituted, to say the least, no very inadequate punishment of the offenders. At all events you will hardly deny that, whether that punishment is or is not adequate, in the opinion of the government of the United States, it is the only penalty to which such offenders can, according to the well-known rules of international law, be made liable. If the fact be, as the papers enclosed in your note seem to show, that some ships engaged in running the blockade, but not navigable as vessels of war, are the property of the government of the Confederate States, this fact cannot, in the judgment of her Majesty's government, furnish any justification whatever for the treatment of British subjects in a manner not warranted by international law, even if the British flag should be improperly used to disguise the character of such vessels.

If, indeed, British subjects were found on board vessels belonging to the confederate government, and were not merely passengers, but were employed in connexion with the vessel and cargo in circumstances which rendered it practically impossible that they should be ignorant of the ownership of the vessels, her Majesty's government do not say that there might not be a *prima facie* ground for treating such persons as prisoners of war; but the case now in controversy is that of British subjects engaged as seamen on board of vessels ostensibly British, and which they have had every reason to suppose to be really and *bona fide* such; and her Majesty's government must insist that the United States government would be without warrant in treating such persons as enemies merely on the ground of the discovery, and more on the mere suspicion, without any proof applicable to the particular case, of a concealed interest of the confederate government in such vessel.

With respect to the charge preferred against Lieutenant Rooke, her Majesty's government fail to perceive that the facts alleged would have amounted to a participation by that officer in any warlike service or operation on the part of the Confederate States. Her Majesty's government will not fail to take the proper steps against any officer, bearing her Majesty's commission, who shall be proved to have illegally contravened her Majesty's orders to all her subjects to observe a strict neutrality during the present deplorable war; but in Lieutenant Rooke's case it does not appear that, on further inquiry, the United States authorities were disposed to view the proceedings of that young officer as anything more than the result of inconsiderate thoughtlessness, and I was happy to learn, by a recent mail, that Lieutenant Rooke had been released from confinement.

I shall only further observe, with reference to the alleged intentions of a certain iron-ship builder named James Ash, and of a firm called Stringer, Pembroke & Co., to build steamers for the confederate belligerents, that you must be well aware of the determination of her Majesty's government to put in force, to the utmost of their power, the provisions of the foreign enlistment act against

every British subject who shall violate those provisions, and as to whose offence her Majesty's government may be able to obtain legal and proper evidence, but without such evidence it is impossible for her Majesty's government to act against the persons or property of British subjects.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,

London, March 15, 1864.

MY LORD: I have the honor to acknowledge the reception of your lordship's note of the 9th instant, in reply to mine of the 20th of January last. I have read it with great attention, and must beg your lordship's pardon if I fail to find in it any substantial conflict with the principles enunciated in my letter.

The point to which I took the liberty of calling your lordship's attention was, that the insurgent authorities at Richmond, having received from her Majesty's government a recognition as a belligerent carrying on war upon the ocean with a power with which Great Britain is at peace, are now detected in an attempt to abuse the rights so obtained. To this end they systematically buy vessels of British subjects, man them with British seamen, fill them with supplies and munitions of war obtained in British ports, and persist in sailing them to their respective destinations in the blockade region, using the protection of the British flag. My government, having been made aware of these extraordinary proceedings, has directed me simply to apprise your lordship of them in order that some check may be applied by the party most interested for the better security of its innocent subjects; for it must be perfectly obvious to your lordship that, without interference of some kind, the duty of self-defence, against such a policy of disguised hostility, becomes imperative. Without the possibility of distinguishing between those vessels *bona fide* owned by British subjects, intending to violate the blockade, and those made exactly like them by the insurgents for the purpose of better carrying on their warfare, it must be apparent that all must be equally liable to incur the suspicion of being actual enemies, and their crews *prima facie* to be treated as such on capture.

I understand your lordship not to deny, that to the extent that British subjects may be found in the vessels of the enemy, knowing them to be so, and employed in circumstances which render it practically impossible that they should be ignorant of the work they are doing, the right to treat them as prisoners of war, in case of capture, is a valid right. But if this be once admitted, it necessarily follows that in all cases where suspicion of actually belonging to the enemy attaches to a vessel under certain circumstances, though disguised under British colors, the right of search and seizure is a matter of course. And if it should happen that on board of a vessel so seized are to be found numbers of British subjects, apparently engaged in a work in which it is well known that many of their fellow-subjects are actually enlisted elsewhere, it must be obvious to your lordship that they will not be able, by any care that may be exercised by the captors, wholly to escape the risk of unpleasant consequences that may attend the difficulty of distinguishing between the partially innocent neutral and the wholly guilty enemy.

That I may more clearly present my argument I pray permission to illustrate it by a single example, which has lately been brought to my notice. It

has been stated to me, on authority which appears to be trustworthy, that a British subject, named Thomas J. Waters, started from Greenlith on or about the 17th of January last, in command of a steamer called the *Annie*, apparently fitted out for ulterior designs in America. After getting as far as Portland a heavy blow compelled him to put back, on the 19th or 20th, to Southampton, from whence he sailed again a few days after. Just before leaving London this gentleman is stated to have applied to be, and to have been, actually gazetted as a lieutenant in the naval reserve. The object in making such an application at the precise moment could scarcely have been other than in case of difficulty to take advantage of the national uniform and flag to protect his ulterior hostile operations against a foreign nation. Whether Lieutenant Waters be or be not acting under the authority of the insurgents at Richmond, it is obviously impossible now to determine. The true facts could only be elicited in case of the capture of him and his vessel. In the mean time it must be obvious to your lordship that, under present circumstances, the flagrant abuse thus committed of the position he holds as a British officer would almost necessarily subject him, in the first instance, to be placed in the category of those who are found carrying on actual war against the United States.

In thus repeating the proposition made in my former note, I beg to be understood as by no means intending to "introduce, to the injury of neutral states, any alteration in the well-established practice of international law." I am not disposed to contest the doctrine which I find laid down in your note on the treatment of the subjects of a neutral power endeavoring to break a blockade. All that I ventured to suggest to your lordship was that, in the case now in question, *all* British subjects engaged in this work are made liable, under certain circumstances, to be treated *prima facie* as persons actually enlisted in the service of the enemy. I never denied that the power would still remain with them to relieve themselves by ultimately proving the contrary. What I wished to point out was the inconvenience of the process of thus shifting the burdens of proof; for, whereas, in common cases, it is the duty of the captor to presume the parties to be neutrals, by the new element now introduced it becomes his duty to presume them to be guilty until they can show the contrary.

I am the more earnest in making this representation that it is my conviction that the power to prevent the occurrence of this difficulty, and of the irritation that must necessarily grow out of it, rests in a great measure with her Majesty's government. It is by no means the wish of that which I have the honor to represent to resort to unnecessary harshness in the treatment of any persons who become involved in this painful war, and much less neutrals. But after the experience which it is constantly receiving of the manner in which the war has been and is sustained by the aid of men, money, and supplies from her Majesty's kingdom, it is no more than a simple duty to exercise all legitimate means in its power to suppress such operations. Knowingly to permit the subjects of neutral nations, actually serving in the ships of the enemy, to escape under the shelter of a flag which they wilfully abuse to the end of better effecting their resistance, is a degree of liberality which I am very confident no government would excuse in its own case or expect of the United States. If, as your lordship observes, British property to a very large amount has incurred the penalty of confiscation and condemnation during the present war, I feel sure that this calamity has not been visited upon her Majesty's subjects without painful, and earnest, and continued warnings, on my part, conveyed by direction of the government which I have the honor to represent.

Just so it is in the present instance. Feeling, as my government does, the serious injury inflicted upon the confidence which should always exist in the sacredness of the flag of a neutral nation by the detection of a plot to degrade it to a most sinister use, I have been directed to make a representation of the facts, as well as of some consequences that may naturally follow if measures of prevention be not adopted.

I cannot for a moment admit, in the view thus taken of the subject, there is the smallest variation proposed from a faithful and scrupulous observance of all the obligations imposed upon belligerents by the law of nations.

Having thus performed this duty to the best of my ability, I pray your lordship to accept the assurances of the highest consideration with which I have the honor to be, my lord, your lordship's most obedient servant,

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c. &c.

Mr. Adams to Mr. Seward.

No. 622.]

LEGATION OF THE UNITED STATES,

London, March 18, 1864.

SIR : I have been requested to transmit to the President a copy of the Rochdale Observer of the 12th instant, containing a report of the proceedings of a public meeting held in that town on the 7th instant, on American affairs. The resolution appears to have been adopted unanimously.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

MR. ERNEST JONES ON THE AMERICAN SLAVEHOLDERS' WAR.

On Monday evening, Mr. Ernest Jones, barrister-at-law, delivered an address in the public hall, Rochdale, on the American slaveholders' war. His worship the mayor, S. Stott, esq., presided. The appearance of Mr. Jones on the platform was the signal for most enthusiastic demonstrations on the part of the immense assembly by which the hall was crowded in every part. Mr. Jones was accompanied by the mayor, and a large number of the members of the Rochdale branch of the Union and Emancipation Society; among whom we observed Messrs. J. Petrie, jr., R. Ashworth, W. A. Scott, Alderman Healey, R. Mills, T. Booth, Smithies, Harley, &c.

The mayor, on rising, was heartily cheered, which having subsided, he said : Fellow-townsmen, we are met to-night to listen to an address from Mr. Ernest Jones, on the question of that great struggle which is now taking place in the United States of America. I have been invited by the committee of the Union and Emancipation Society to preside over this meeting, and I accept that invitation in my official position as the mayor of this borough. [Cheers.] I feel that it would be out of place on this occasion on my part to give any expression of opinion in favor either of one of the contending parties or the other. [Hear, hear.] Mr. Ernest Jones appears before us to-night as a comparative stranger to most of us, and I have no doubt, from what I know, and what I have read of that gentleman's abilities, I can say you may expect that the address that he will deliver to-night will not only be eloquent but instructive, [cheers,] and I ask you, as the mayor of this borough, to give him a fair and impartial hearing, to give him that liberty which you expect at the hands of others, and I will promise you one thing, that at the close of this meeting, if there should be any gentleman anxious to put any question to Mr. Jones relative to the subject of his address, by making his appearance on this platform he shall have a fair and candid hearing. [Cheers.] I ask you (but I need not ask a Rochdale audience) to give Mr. Jones that attention the subject demands. We all deplore, indeed

we need deplore, the struggle which is now taking place on a neighboring continent. [Hear, hear.] We all regret the spilling of blood and the great sacrifice of human life. We deplore the thousands of wives that have been left widows, and the thousands and tens of thousands of children that have been left orphans; we all sympathize with the bereaved, and we even hope that the time is not far distant when this war shall be ended and the sword shall be sheathed, and peace shall once more reign triumphant through that land. [Cheers.] We do not only desire this on their account, but also on our own. We all know what suffering the people of this town—nay, the people of Lancashire—have passed through during the last three years in consequence of this war. We all know the importance that this great struggle bears relatively to this district, when that important supply of cotton which kept our mills at work five days out of the six at least was cut off almost without a moment's warning, and by one stroke; but even here I hope we shall learn lessons as merchants, manufacturers, and operatives; that the policy we have pursued has been of the most suicidal character; rendering ourselves, as you know, dependent upon one country alone for so important an article as cotton—an article which has kept dependent upon its supply some four millions of human beings. [Hear, hear.] I have not come here to-night to make a speech. I appear before you as the mayor of this borough, and I am glad to have the opportunity of presiding on any occasion over a Rochdale audience. [Cheers.] Let me again ask you to give the lecturer a careful and impartial hearing. [Cheers.] I have great pleasure in introducing him to your notice. [Applause.]

Mr. E. Jones, on rising, was received with rounds of cheers, again and again renewed. The learned gentleman said: Mr. Mayor and gentlemen, the subject that is to engross our attention to-night is one of such vital importance that it appeals not merely to the feelings of a Rochdale audience, or of a Lancashire audience, or of an English audience, but it is a subject that ought to enlist the sympathies, and shall enlist the attention, of the whole civilized world. [Cheers.] It is a subject involving not merely English interests or American interests; it is a subject not merely of pounds, shillings, and pence, vital and important as any pounds-shillings-and-pence question must be to a manufacturing community; but it is a subject involving questions of morality and humanity, and questions of religion itself. [Cheers.] Nor is it at all out of place, even abstracted from our own personal interests, that we should deeply ponder over and calmly deliberate upon the struggle proceeding in the United States of America. We are invited to do so. We are, if I may use the expression, challenged to do so by the originators of that war, and by those who are the chief actors in that struggle on the side of the south. The government of the Confederate States, by the manifestoes they have issued to the world, are asking the sympathies and claiming the opinion of the people of England and of all countries as to the course they have pursued. They have sent over ambassadors to England and France asking for sympathy, for recognition, and alliance at the hands of the English people and the French people; and therefore it behooves us, as citizens in a free country, as people claiming to have a voice in that which England does and that which England says, to give our answer to that invitation, to say on which side we believe that our sympathies ought to be enlisted; upon which side our duties really lie; and what is the attitude which we ought to hold between the belligerent parties. Bearing that view of the question in mind, I propose to analyze the subject-matter under the following heads: First, to endeavor to show what was the origin and what was the object of secession; second, to examine some of the assertions made by the defenders and advocates of the south; third, to consider what, in my humble judgment—and to submit for your consideration arguments in support of that judgment—appear to be the interests and the duties of the people of this country, because you have been told that it is a pocket question with England; you have been told that so long

as this war lasts the supply of cotton from America would be kept away ; and certain measures have been suggested to you which, if they were adopted, it is said would insure you a cotton supply. Under these three heads I purpose to address you to-night, and I purpose laying down before you and maintaining to the best of my poor ability the following arguments: First, that the sole origin and entire object of the secession war has been to perpetuate and to spread slavery, [cheers ;] second, that the war was not originated for the purposes of free trade, not originated upon questions of tariff, not waged for national independence as such. [Cheers.] Those with reference to the first branch of the argument are the propositions which I purpose to maintain. Secondly, I purpose showing that the Confederate States had no right, constitutional, legal, or moral, for secession ; that they labored under no grievances which would sanction their secession ; and that, consequently, their rebellion is a rebellion, and an unjustifiable rebellion altogether. Thirdly, that with a view of obtaining cotton, with a view of securing the prosperity of the working classes of this country, a disruption of the American Union is not desirable, but the very reverse.

And first I purpose laying before you what really the fighting question was before the sword was drawn between the north and south. You are aware that the United States of America, before the secession war began, consisted of States and Territories. The States were those portions of the community which had a municipal independence, which had State rights, and as States sent representatives to Congress. The Territories were merely provinces in the process of formation into States, ruled under the authority of the central executive. Each of these Territories could claim to be made a State as soon as it had a population of 124,000. For a long period the question of slavery and freedom had been at issue and debate between the north and south ; and the origin of that question dates back to the very foundation of the American colonies of England. There are some people who say, "What a blot slavery is upon republican and democratic institutions in the greatest (and as they call it) model republic of the modern world!" [Laughter.] But, recollect when slavery was founded in the whole of the northern continent of America ; recollect that it was established when America was a colony of the English crown ; that slavery was not established by democrats or republicans, but that it was established by monarchy and aristocracy. [Cheers.] But although slavery existed generally throughout the Union when the States comprising the Union were English colonies, step by step slavery was purged from all the northern States, and it was only in the southern States, and in a portion of the western States, that it struck deep root and maintained itself as a growing and rampant institution. [Hear, hear.] Why was it so? Because there was a distinction between the men who colonized the north and the men who colonized the south. You will find that generally it is the aristocracy of this country, and those who are fond of clinging to the skirts of that aristocracy, those who would desire to be an aristocracy themselves, and the State church clergy of this country very generally, who support the south. [Cheers.] Now this is perfectly natural. [Laughter.] It is not to be wondered at, and I will tell you why. The northern colonies of America were colonized by the Puritans, by the Lollards, by the middle classes and the working classes of England, who fled from church and royal persecutions. The southern colonies were colonized by the fugitive cavaliers, by the malignants, by those who viewed with disgust the growth and supremacy of democratic institutions, who shrunk before the sword of Cromwell and the eloquence of Pym. [Cheers.] The south was colonized by the aristocracy of Britain, the north by the democracy of Britain. [Hear, hear.] Where does slavery exist, and where did slavery perish of itself? It perished in the democratic north, and it has struck deep root in the aristocratic south—[cheers]—where the aristocracy of England have claimed the land, partitioned it among 300,000 planters, and degraded labor to the lowest possible degree. [Cheers.] The

north, purging slavery from its confines, sought to spread liberty further and further to the south; the south, determined to cling to slavery, sought to spread it further and further towards the north. And on that basis the battle was fought, first on the hustings, then on the floor of the Senate-house and House of Representatives at Washington. Of course everything now depended on who had the most votes in Congress. For a long series of years the south had supremacy. The south elected pro-slavery men as Presidents of the Union, and through these Presidents succeeded in putting southern officers in the command of Union regiments, dockyards and navy; in putting pro-slavery judges on the judicial bench, and thus we have the notorious decision in the Dred Scott case, in the teeth of justice and law. [Cheers.] Then arose the question whether the Territories should be admitted as free States or slave States; for every new State having the power to send two representatives to Congress, if the State was admitted as a free State, the northern party gained these votes; if as a slave State, the southern party. [Hear, hear.] Therefore the battle of freedom and slavery was fought for a long series of years on this basis—whether the new States should be admitted as free States or slave States. You remember the really terrific and blood-thirsty struggle that took place in reference to the admission of Kansas. In order to gain a majority of votes the south sent across the border a gang of Missouri ruffians, who drove away the honest free electors, and giving their spurious votes at the point of the revolver and bowie-knife, brought Kansas into the Union as a slave State. But when, in the year 1850, California was admitted as a free State, thus restoring the balance of power between freedom and slavery, the struggle became one of peculiar intensity, and in order to meet the issue the southern men, in defiance of law and treaties, reopened the slave trade, and for the following reasons. The Hon. L. W. Spratt, senator of South Carolina, tells us in a few words upon what basis that battle was fought:

“The revival of the slave trade will give political power to the south—imported slaves will give increased representation to the national legislature—more slaves will give us more States, and it is therefore within the power of the untutored savages we bring from Africa to restore to the south the influence she has lost by the suppression of the slave trade.”

Vice-President Stephens said: “We can divide Texas into five States, and it is plain that, unless the number of African stock be increased, we have not the population, and might as well abandon the race with our brothers of the north in the colonization of the Territories.” Therefore you see they have openly expressed their intention of renewing the slave trade in order that they might swamp the Territories with a slave population, and (five slaves counting as one white) then say: “Here are the requisite 124,000 votes required for the admission of the Territory into the Union as a State; it shall be made into a State, and it shall be made into a slave State; and the population being slaves will give us two more votes to set against the republican and abolitionist States.” Upon that ground, then, the battle was fought, and the slave trade reopened. In 1849 a convention met at Vicksburg, and unanimously voted that an American labor supply association be formed, with Mr. De Bow as president. The State of Georgia offered a premium of twenty-five dollars for the best specimen of a live African imported within twelve months. Alabama formed a league of United Southerners to reopen the slave trade; and Arkansas and Louisiana followed in the same direction. The slave trade was therefore reopened in defiance of the law; and they sought to fight the battle on the basis of the new States. This the north resisted; and to show you the exact ground upon which this battle was fought between the two parties, which led to the triumph of Lincoln and abolition principles, I will read you the principal clauses of the republican platforms of Fremont and Lincoln:

"The new dogma that the Constitution, by its own force, carries slavery into any or all Territories is a dangerous heresy.

"The normal condition of all the territories in the United States is freedom. As our republican fathers, when they abolished slavery in all our national territories, ordained that 'no person should be deprived of life, liberty, or property without due course of law,' it becomes our duty to maintain this principle inviolate; and we deny the authority of Congress, of the territorial legislature, or of individuals, to give existence to slavery in any territory of the United States.

"That we brand the recent reopening of the African slave trade under cover of our national flag, aided by perversions of judicial power, as a crime against humanity, and a burning shame to our country and our age; and we call on Congress to take prompt and efficient measures for the total and final suppression of that execrable traffic."

That was the platform and basis upon which the battle was fought. The triumph of Buchanan over Frémont, in 1856, caused a momentary lull in the action of the republican party of the north. But the south felt that at the next election of President they must be in the minority; and from that moment they prepared for active war, for the present rebellion. I am not here to advance my own opinions on this subject; I am here to bring the southern leaders themselves on this platform, and to prove my case in their own words, from their own declarations and state papers. [Cheers.] If I can show you that the south told us they intended to draw the sword for slavery; if I can show you upon what terms they offered to return the sword to the scabbard; if I can show you that they offered a slavery compromise; that the ordinances of the seceding States all turned mainly upon slavery; and if I can show you that the crowning work of all this was a slavery constitution—a constitution differing from the federal Constitution only on this single point—then I shall ask you to accept one of two propositions—either that the south speaks the truth, and if it does, that this is a struggle for slavery, and for slavery alone, or else that its declarations are a lie, that its compromise is a lie, its ultimatum a lie, its secession ordinances lies, its constitution a lie; and if so, I wish the southern advocates joy of the honorable clients which they appear here for. [Cheers.] Now, one word with reference to the slave trade. As the mayor has told you, I shall be happy to answer any objections that may arise at the close of my address; but perhaps I may be permitted to anticipate one or two as they do arise. You may have been, you may be told, "Well, if slavery is the object of the struggle, why is it that in the confederate constitution the slave trade is prohibited?" Undoubtedly it is prohibited, but under what circumstances? By an overwhelming majority in both houses of the confederate legislature the slave trade was formally reopened; but then it was said by Jefferson Davis and the leading statesmen of the south, "We are seeking the support of England and France; and if they see that the slave trade is legalized by one of the clauses of our constitution they will not give us their support." Therefore he put his veto upon that clause of the constitution. But the Hon. W. L. Spratt has explained the motive—that it was a sprat to catch a herring. [Laughter.] Then, when it was found probable that an abolition President would be elected, the Richmond Enquirer, the Moniteur of the Confederate States, wrote thus: "If Frémont is elected, the Union will not last an hour after Pierce's (the then President's) term of office expires." Preston Brooks, of South Carolina, said:

"The only mode available for meeting it [the issue between slavery and freedom] is just to tear the Constitution of the United States, [thus admitting that the Constitution did not provide for slavery,] trample it under foot, and form a southern confederacy, every State of which shall be a slaveholding State."

Jefferson Davis, speaking at Jackson, Mississippi, in 1858, said:

"If an abolitionist be chosen President, you will have to consider whether you

will permit the government to pass into the hands of your enemies. In that event, in such manner as should be most expedient, I should deem it your duty to provide for your safety outside the Union."

And Buchanan, the southern President, in his message to Congress in December, 1860, throwing off the presidential mask as far as he could, said:

"The long-continued and intemperate interference of the northern people with the question of slavery in the southern States has at length produced its natural effects. The immediate peril arises from the incessant and violent agitation of the slavery question throughout the north for the last quarter of a century, which has at length produced its malign influence on the slaves, and inspired them with vague notions of freedom."

Now, I say, if all these men, representative men, before the sword is drawn, tell you why they mean to draw it, are you to believe what they say or what you are told by amateur politicians in England, three thousand miles from the scene of conflict, who tell you that these men, who led the rebellion, did not know what the rebellion was really for? [Cheers.] But more than this, at the close of 1860 a committee of thirty-three, or a committee consisting of a representative from each of the States then in the Union, was appointed to ascertain what were the points of difference between the northern and southern States. The report of this committee was published, and, as Mr. Cobden has told you, every one of the grievances of the south arose out of slavery, and nothing else. [Cheers.] So much for the declarations of the south when the sword was drawn. After it was drawn, a compromise—the Crittenden compromise—was proposed. Some gentlemen here tell you that the rebellion is for free trade—that it was a revolt against the Morrill tariff. But what were the terms of this compromise? Why, that "by amendment of the Constitution," thus admitting that the Constitution does not provide for slavery—[cheers]—slavery should be recognized as a permanent and legal institution in all territory south of the geographical line of 36 degrees 30 minutes; that Congress should have no power to abolish slavery in the States permitting it; that slavery should be sanctioned in the District of Columbia, while it existed in Virginia and Maryland, and that the officers of government and members of Congress should not be prohibited from bringing their slaves there, and holding them there as such; that Congress should have no power to hinder the transportation of slaves from State to State; that Congress should have full power to pay the owners of fugitive slaves their full value, where the national officer was prevented from arresting the fugitive; that Congress should never have the power of interfering with slavery in the States where it was then permitted; that the right to have property in man should be legal not only in the territories then in possession, but in all territories to be thereafter acquired. That was the compromise called the Crittenden compromise. It is slavery in the beginning, slavery to the end. [Cheers.] Not one word about free trade or the Morrill tariff. [Cheers.] Then Jefferson Davis offered to the north an ultimatum—on these conditions, and these only, we (the south) will return to the Union; and what are these conditions?

"That it shall be resolved by amendment of the Constitution [again that word amendment'] that property in slaves, recognized as such by the local law of any State, shall stand on the same footing in all constitutional and federal relations as any other property so recognized, and, like other property, not be subject to be divested or impaired by the local law of any other State, either in escape thereto, or transit, or sojourn of the owner therein, and, in no case whatever, shall such property be divested or impaired by any legislative act of the United States, or any of the Territories thereof."

Where's the free trade—where's the Morrill tariff—where's the independence? [Cheers.] Every State that has slaves now shall have slaves forever; every

Territory that has slaves shall keep its slaves forever; every future State admitted into the Union to be a slave State. [Hear, hear.] Throughout every chamber of the republican palace the foot of liberty shall never fall. [Cheers.] Every new State emblazoned as a silver star upon the banner of the United States shall be but the widening of a dungeon instead of the enlarging of a palace. [Cheers.] But the north said "No;" they spurned the compromise, and they said, "Every new star shall be bathed in the light of liberty, and shall help to shine"——[enthusiastic cheering, in which the sentence was lost.] Now, then, these men have told us why they meant to draw the sword; they have told you what compromise they would accept; they have told you upon what conditions they would return to the Union. Their compromise was spurned, and secession took place. As they seceded, State by State issued State documents called secession ordinances, in which they undertook to show the grounds upon which they seceded, and the justification of their secession. I will read to you one of them, that of South Carolina. This was the first of the States to secede, and so great was her hurry to get out of the Union, that, though seceding upon Mr. Lincoln's election, her secession ordinance was actually dated before his inauguration. [Laughter.] And what were the reasons by which South Carolina justified secession?

"That the fugitive slaves had not been recovered from the free States. That the slave-hunter had not been assisted in recapturing the slaves. That the free States had not caused their officers to become slave-catchers in pursuance of the slave law. That the right of property in man had been denounced as sinful. That societies for teaching abolition principles had been openly allowed for twenty-five years. That by Lincoln's election this anti-slavery agitation had received the aid of the President, and that Lincoln had said "government cannot endure half slave, half free," and "slavery is in the course of ultimate extinction."

Alabama, on the 11th of January, 1861, Texas, on the 1st of February, Virginia, on the 17th of April, issued secession ordinances in the same tone and spirit. [Cheers.] Now, then, by its fruits ye shall know the tree. What was the constitution of the Confederate States? In that, if anywhere, you must look to find the aim and object of the south. The federal Constitution does not provide for slavery—I speak on that point advisedly—but the confederate constitution deliberately provides, in three of its principal clauses, for perpetual slavery. These clauses are the only great distinctive marks between the constitutions of the north and south; and these clauses I will read to you:

"All citizens may travel about the confederacy with their slaves, and the right of property in such slaves shall not thereby be impaired.

"No slave escaping to another State shall in consequence of any State law become free, but shall be delivered up to the owner.

"The confederacy may acquire new territories. *In all such territories slavery SHALL be.*"

That is the constitution of the Confederate States. [Cheers.] Now, have these men shown by their own words and acts that their movement was for slavery, and for slavery only, or not? Shall we believe the great criminal himself, who, before the tribunal of history, pleads guilty, not with bated breath, but as glorying in his crime?—[cheers]—or shall we believe his advocate here, the quibbling lawyer who, bribed with his cotton fee, is yet ashamed of his own client, and makes himself the apologist of a liar that he may not appear the confederate of a knave? [Cheers.] Mr. Jones described the southern victory at Bull run, and to show the effect of this victory quoted several declarations by Vice-President Stephens and others to show that the south, when the sword was drawn, adhered to the object for which they said they intended to draw the sword. Mr. Jones laid particular emphasis on the following passage from a sermon by Dr. Palmer, a leading southern divine, as explicit confirmation of the famous speech of Mr. Stephens:

"The providential southern trust is to perpetuate the institution of domestic slavery as at present existing, with freest scope for its natural development. We should at once lift ourselves intelligently to the highest moral ground, and proclaim to all the world that we hold this trust from God, and in its occupancy are prepared to stand or fall. It is a duty we owe to ourselves, to our slaves, and to Almighty God (!) to preserve and transmit our existing system of domestic servitude, with the right unchallenged by man, to go and root itself wherever Providence and nature may carry it."

Following up this train of observations and quotations Mr. E. Jones said: Now I am going to read to you something that should make your blood curdle—I refer to the manifesto of the hundred southern ministers of the Gospel. I have the most profound respect for ministers of the Gospel of every denomination and persuasion who consistently and conscientiously teach what they believe. [Cheers.] But I say this, that while most sincerely respecting them, I believe there is no man worse than a bad parson. [Great laughter.] When the devil has any ordinary piece of dirty work an ordinary man will do it, but when something peculiarly atrocious is to be done he generally finds a bad parson to do it. [Renewed laughter.] And this is the manifesto which these one hundred southern ministers of the Gospel put forth—

"The practical plan for benefiting the African race must be the providential, the scriptural plan. We adopt that plan in the south. We regard abolitionism as an interference with the plans of Divine Providence." [Laughter and hisses.]

Permit me, gentlemen, to tell you, before I pass to the next branch of the argument, why the south triumphed at Bull run. As I have already said, this rebellion had been preparing from the moment of Mr. Buchanan's election. By that election the south placed a pro-slavery man in the presidential chair of the United States. Under this administration they placed southern officers in the command of Union regiments, southern officers in command of Union dockyards and arsenals. They had been training and drilling the State militias; they were therefore able, on the outbreak of war, to place a veteran army of trained and drilled soldiers in the field, while the north, lulled to slumber by the treachery of Buchanan, could not believe in the existence of so gross and gigantic a conspiracy. [Cheers.] Can you wonder at this, can you doubt it, when you find Jefferson Davis Secretary of War for the United States of America? [Cheers.] At the first sound of war the north rushed to arms and took the field against the trained troops of the south, troops trained and armed out of their taxation, [cheers;] they came from the plough-tail, from the shop, from the factory, from the loom, from the office, from the counting-house, unarmed and undrilled; they bared their breasts with honest hearts within cannon shot of the south. [Cheers.] They fought well, they fell gloriously; but a panic arose at the eleventh hour, as panics do arise, and thus the south triumphed at Bull run. [Hear, hear.] But nobly has the north retrieved that defeat. [Cheers.] The north has shown that it could do a little fighting too; and yet now the advocates of the south come before you and say you ought to sympathize with the south—see how gallantly they fight. [Laughter.] So they do. Give the devil his due. [Hear, hear, and laughter.] So did the Austrians in Italy and in Hungary, yet I am for the Italians and the Hungarians. [Cheers.] So do the Russians in Poland, yet I am for the Poles and not for the Russians. [Cheers.] Unfortunately the minions of despotisms have but too often fought well. [Hear, hear.] But it is not extraordinary that some people can never see bravery but on one side, and only cheer when the devil makes a hit? [Cheers.] Now, then, I submit that from the mouth of the south itself—from the press of the south, from the pulpit of the south, from the statesmen of the south, from the state papers of the south, from the constitution of the south, that the recognized object of this rebellion was slavery,

and slavery alone. [Enthusiastic cheering.] But there are some gentlemen who say that the struggle was for free trade, and not for slavery. Permit me to show you the enormous fallacy of that argument. Properly stated, of course, this argument means, and you are asked to believe, that the north had passed protective tariffs, and that the south had opposed these tariffs. [Hear, hear.] Now, two of the very last tariffs passed, excepting the Morrill tariff, were passed by the south against the votes of the north. The tariff of 1846 was voted as follows: For, 50 northern votes, against 73; making a northern majority of 23 against the measure. [Cheers.] For, 64 southern votes, against 21; making a majority of 42 southern votes for it. [Cheers.] For the tariff of 1857 there were 60 northern votes, against 64; making a majority of 5 against it in the north. [Cheers.] For, 63 southern votes, against only 7, [cheers;] making a majority for it in the south of 56. [Cheers.] These were the two last protective tariffs before the Morrill tariff; and they were, as you see, passed by the south in the teeth and in defiance of the north. [Cheers.] And yet, in the face of this, the south comes before you to say, "We are for free trade, the north are protectionists." [Laughter.] But you are asked to sympathize with the south upon free trade principles, and more especially with the view of getting free trade cotton. This is the favorite argument of Lords Wharncliffe and Campbell. Yet one of the first acts of the southern confederacy was to impose a tax of eight, and then of ten per cent. upon cotton—and why? Why, in their own words, to raise their revenue for the war in England, and thus "to make the English pay their taxes." [Cheers.] They boasted that they should by this means drive the manufacturers and operatives of Lancashire to desperation and war. [Hear, hear.] After speaking at some length of the "secession trick" by which the Morrill tariff was passed, Mr. Jones passed on to speak of the right of the south to secede. There are [said the learned gentleman] southern apologists who say that, irrespective of slavery or free trade, their clients had a right to secede. On what ground? "Oh," say they, "the States are sovereign and can do as they like." The Constitution gives them no such right. On the contrary, it takes all such power away. By the first Constitution, of November, 1777, the States preserved their sovereignty, and such rights as were not delegated to the general Congress, [in itself an important reservation;] but this was found to work badly. Washington wrote the celebrated letter of 1783, pointing out the evil, and the present Constitution of the United States was passed on the 4th of March, 1789, for the especial purpose of putting an end to the independent sovereignty of the States. This it does most effectually. The preamble says: "We, the people of the United States, ordain and establish this Constitution for the United States of America"—a Constitution established by the whole people for all the States; and that Constitution specially and succinctly takes away every attribute of sovereignty from every individual State. It prohibits all taxes and duties between States, all treaties and alliances by States, all coining of money, all emission of bills of credit, all duties on exports and imports, all duty on tonnage, all keeping of troops or ships-of-war in time of peace, all agreements with a foreign power, all acts of war (unless actually invaded, and no time existing for delay) on the part of any State, and all agreements or compacts of one State with another, without consent of Congress. This Constitution shall be the supreme law of the land, and the judges of every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding. Article 5 provides for the amendment of the Constitution on the sole condition that three-fourths of the States of the entire Union, after long and great formalities, consent to such amendment, thus taking away the power of any individual State to separate from the bonds of union the Constitution imposed. [Cheers.] Who will now maintain that the States are individually sovereign, and could by right secede of their own will? [Cheers.] But how did the south itself construe this Con-

stitution? What do the slave States themselves say of it? Virginia was the first to set about altering this evil of State sovereignty. In the Virginia convention, assembled to ratify the Constitution, Patrick Henry opposed it because it took State sovereignty away! Yet, hearing this, Virginia voted for it on that very ground. [Cheers.] Mr. Benton, a southern man, one of the fathers of the democratic party, and for thirty years a representative in Congress, tells us that, "At the time of its first appearance, the right of secession was repulsed and repudiated by the democracy generally, and in a large degree by the enfeebled party, the difference between a union and a league being better understood at the time when the fathers of the new government were alive. The leading language in respect to it, south of the Potomac, was that no State had a right to withdraw from the Union, and that any attempt to dissolve it, or obstruct the action of constitutional laws, was treason." [Cheers.] The same views were propounded by Presidents Madison, Jefferson, Jackson, by the representatives of the secession and slave States, Randolph, Millson, and Leake, of Virginia; Nicholson, of Maryland; Kennedy, of the same State; Rousseau, of Kentucky; Hamilton, of Texas; Etheridge, of Tennessee; and many other leading southern men, including Stephens himself, the vice-president of the southern confederacy. [Cheers.] Thus much for the right of secession. The States are, in fact, municipally independent, but politically provincial. [Cheers.] But the right of secession may be urged from higher ground. I believe that, irrespective of any written law—of any human laws—there are circumstances in which a people have a right to rise in rebellion and take up arms. [Cheers.] I can conceive of circumstances in which the sacred right of rebellion would not only be a right, but a duty. [Enthusiastic cheers.] I fully indorse the "sacred right of insurrection." But it is not to be lightly used: but on good and adequate ground insurrection is more than a right—it is a duty. In some cases rebellion to man is obedience to God. But to justify rebellion two conditions are indispensable: firstly, there must be an intolerable grievance; and secondly, every moral, legal, and constitutional means for obtaining redress must have been exhausted before the sword is drawn. Then a people have a right to rebel, and God defend the right. [Cheers.] Is this the case with the south? Did it use the constitutional means at its disposal? The Constitution gives, as I have already stated, the right of the veto to the President. Southern States held office—did the south make an appeal for the veto? The Constitution gives, as I have said before, a power of amendment by its 5th article; did the south seek redress by means of that power? No; the veto was the surprise of Norfolk navy yard, its petition was the bombardment of Fort Sumter! Even before the Crittenden compromise was offered it was maturing insurrection; when the Jefferson Davis ultimatum was issued it was an armed insurgent. [Cheers.] Even if it suffered under grievances, the south, as we have seen, was bound to seek relief from them by constitutional means; but had it any grievances? Let the south itself answer. The governor of Florida declared, "The rebellion was made without complaint of wrong or injustice." Rousseau, of Kentucky, asserted, "Our government has oppressed no man, neither has it burdened us a feather's weight." Kennedy, of Maryland, said, in May, 1861, "Maryland has no cause for revolution; no man can lay his hand on his heart and say 'this government of ours has done him wrong.'" Holman, of Indiana, a democrat, told his hearers, "No intolerable oppression exists. Therefore, if the government is overturned, it will be without justification or excuse." Millson, of Virginia, Hamilton, of Texas, and Etheridge, of Tennessee, all maintained that "That there was no cause for rebellion, no tyranny." [Cheers.] The people of Virginia, in convention at Wheeling, spoke to the same effect. The convention of the border States, at Frankfort, uttered the same sentiment in the face of the united south, and Mr. Stephens himself, the present vice-president of the Confederate States, on the 14th of

November, 1860, made the following memorable statement in the Georgia State convention: "This government of our fathers, with all its defects, comes nearer the object of all good government than any other on the face of the earth. Have we not at the south, as well as the north, grown great, prosperous, and happy under its operation? Has any part of the world ever shown such rapid progress in the development of wealth and all the material resources of national power and greatness as the southern States have under the general government?" In the Georgia State convention, held in January, 1861, to decide on secession, Mr. Stephens said further: "What right has the north assailed? What interest of the south has been invaded? What justice has been denied? What claim founded in justice and right has been withheld? Can any one name one governmental act of wrong deliberately and purposely done by the government of Washington of which the south has a right to complain? I challenge the answer. Now for you to attempt to overthrow such a government as this, under which we have lived for more than three quarters of a century, in which we have gained our wealth, our stand as a nation, our domestic safety while the elements of perils are around us, with peace and prosperity, accompanied with unbounded prosperity and rights unassailed, is the height of madness, folly, and wickedness." Therefore they had not a grievance. The Constitution did not give them a right to secede. Had they had a grievance, they did not take the constitutional means to obtain redress. [Hear, hear.] Therefore this is not a rebellion sanctioned by the laws of God or the feelings of men, [cheers;] but it is a rebellion against a just government, and a rebellion to perpetuate one of the foulest crimes that has ever stained the historical annals of any country. [Cheers.] Mr. Jones, in continuation, showed that the rebellion was as much a rebellion against the south itself as against the north, by citing the number of votes recorded at Mr. Lincoln's election for the Union candidate in the southern States; and then resuming the general thread of his oration, the speaker, referring to the aristocratic sympathy with the south in this country, said: It is not that they love slavery, but that they hate freedom. They are afraid of the great example of the modern republic; they are afraid that when the workingmen of England see how under republican institutions every man has a vote; when they know that every workingman tills the land for his own and not for other men's benefit, that the example will be too taking before the eyes of Englishmen, and will render the people of this country more discontented with the institutions under which they live. [Cheers.] Passing on to notice the assertion of Lords Wharncliffe and Campbell, that the prosperity and growth of America is dangerous to the prosperity of England, Mr. Jones said: My friends, I am an Englishman, and I believe I love my country as much as any man. [Cheers.] But I say at once, perish the prosperity of my own country if that prosperity is to be founded on the ruin of any other country. [Cheers.] But it is not so. The prosperity of England is the prosperity of America too. [Cheers.] America and England are the two hands of freedom with which He lifts the oppressed people of the earth up to dignity and freedom. [Cheers.] The success of American institutions and principles is a Godsend to the workingmen of England and to the oppressed people of the European continent. [Cheers.] Now let us proceed to the next branch of the argument. What are the duties and interest of the English people in reference to cotton? Don't for one moment believe that the south, in the long run, can successfully resist the north—that is, of course, if she has the will. [Cheers.] It is a mere question whether the north has the will. She has the means, if she only has the will. You often hear it stated, 1st, that the north is giving way; that it is overwhelmed with debt, exhausted in men, money, and resources, and cannot hold out much longer; 2d, that the struggle is "so frightful and so hopeless for the north that it ought to be stopped;" and 3d, that to "stop the war is the way to get the cotton." Now, is the north over-

whelmed with debt? On the 1st of September, 1863, its debt was \$1,200,000,000, less than one-fourth of the debt of England. This American debt, however, we are reminded, was incurred in two years, while England's took forty to accumulate. True. I accept the comparison; but during that time England raised 63 per cent. of its total outlay by taxation, while America has so raised only 14½ per cent. True, but America (I mean the loyal northern States alone) have over Great Britain as during that period an advantage of 28 per cent. in property, 30 per cent. in population, and 110 per cent. in annual produce. True, but with their ordinary resources, without raising an extraordinary tax, or burdening the people by one feather's weight, the northern States could pay off this debt in less than sixteen years! Yes! the north is still practically untaxed, untouched, undrained. Such it is actually. But what is its rate of progress? The increase of wealth in the loyal States alone was, from 1840 to 1850, 64 per cent.; 1850 to 1860, 126 per cent. [Cheers.] What was the increase of the wealth of Great Britain during the same period? Only 37 per cent. What was the increase of the southern States? Only 3 per cent., and in that they reckon the increase of slave property, which is in fact their weakness, not their strength—their poverty, not their riches, as you will see hereafter. [Cheers.] But you may say this increase was before the war. So it was—and what has it been since the war? Take the great war year, 1861-'62. The north has never before been so prosperous. Its material well-being has grown with unparalleled rapidity. From beef to books, from books to beef, the progress has been alike remarkable. In that year the booksellers' circulars show an unprecedented rise in the demand for literature. In that year, besides supporting all its armies in the field, the north *exported* \$80,000,000 worth of breadstuffs more than it ever exported in any one year before. In that year the depositors in the savings banks exceeded by 28,842 the number of depositors that have ever been annually recorded. In that year the amounts deposited were \$5,618,225 more than any other year had ever witnessed. Does that look like being overwhelmed with debt? Nay! the very debt is a guaranty of northern strength and a bond of union between north and west. The money borrowed is borrowed, not from foreigners, but by the government from the people; it is a national vote of confidence in the administration; every dollar subscribed is a pledge of loyalty from the subscriber; it is a link connecting west and north. From Mexico to Maine the loan has been subscribed for, and while the south seeks to separate west and north by an iron sword, west and north are sealing their eternal union with a ring of gold. [Cheers.] If you reflect, you will see that the capital of the north is inexhaustible, alike in land, in men, in bullion. In land, one thousand million acres of public lands are still at the disposal of the government. In men, twenty-four millions of people inhabit the loyal States, increasing at the rate of 50 per cent. in every decade. In bullion, the gold regions of the north extend 1,100 miles in length, 1,100 miles in breadth—1,210,000 square miles of gold-enshrining soil—land fruitful to support a teeming population, leaving its surplus labor to the golden harvest. Such is the power of the north, such is its wealth. The granite mountains are its treasure chests, whose ingots illimitable labor coins in the sparkling gold of the wheat-field and the silvery tissues of the untiring loom. [Cheers.] What has the south to array against this? An average of 3 per cent. of wealth against 122 per cent.; seven million whites and four million blacks against twenty-four millions. Nay! not four million blacks. The negroes are its weakness. The slaves require an army to watch them, taking away from the rebel numbers in the field. Nay! not seven million whites. They had seven millions while their confines still remained untouched. But parish after parish, county after county, State after State, with all their population, white and black, have been wrested from the southern grasp, leaving diminished numbers with perishing resources to meet the ever-growing power of their foe.

Where are the gold regions, where the public lands of the south? Nay! while the riches of northern soil become greater every year, the south is decaying beneath the curse of slavery. Slavery exhausts the soil. The slave system is practicable only where labor is carried on in masses. The slaves are trained to one especial kind of toil. Under this system the rotation of crops is impracticable, and therefore the planter tries to make as much out of the land in as short a time as possible. Therefore sugar follows sugar, rice succeeds rice, and cotton cotton, and the soil rapidly becomes impoverished. The south teems with worn-out plantations and exhausted soil. [Cheers.] Such being the relative strength of the combatants, is the perseverance of the north equal to its resources? Let the last vote tell; the republican majority, the Union party, the party determined to enforce Union and emancipation in America, has carried the last election by majorities such as it has never known before; and where democratic falterers were hitherto in the ascendant, abolitionists and unionists have been elected by overwhelming numbers. [Cheers.] The southern advocates in England further say, "Stop the war," that we may "get the cotton," and they back their words by pointing to the horrors of the struggle, and urging that it is to the interest of English workingmen to recognize the south. "Stop the war!" So say I—would to heaven it could be stopped on a just basis—and therefore I say, leave the north alone to stop it. "Stop the war!" Will those gentlemen be kind enough to tell us how they propose to do this? I have never heard that yet. Is it by the "recognition" which they advocate? What does this recognition mean? How will it stop the war? They must intend one of two things: either bare recognition on paper, or recognition backed by arms. If the former, will recognition alone dismount a single battery, sink one monitor, or silence a solitary gun? A clever way, certainly, to "stop the war!" It won't do that; but I'll tell you what it will do—disgrace the English people forever; make them the abettors of the vilest criminals that ever stained the page of history, and bring down on the heads of those base allies the hatred of the noblest republic the world has ever known. [Cheers.] No, gentlemen, if we needs must sell ourselves to the devil, let us, at least, get something for our bargain! "Stop the war!" No! it would create another. [Cheers.] Do you think America would ever forgive that recognition? England undoubtedly can hold its own, but, if we are to plunge into a conflict, do let us, at least, be the on right side, not the wrong; on the side of freedom, not of slavery; on the side of a good government, not on that of an unjustified rebellion. [Cheers.] But if their recognition means anything, it means armed intervention. If it don't, it means worse than nothing. "Break the blockade and get the cotton," that is what it means. Do you know what that would cost? England's commerce swept by privateers from off the seas. Debt, taxation, and misery for all time to come. You know the price of the Crimean war; an American war would cost three times as much. Who would pay that? You, the people; you the shop-keeping and working classes of this country; you and your children's children through all posterity burdened with a crushing load of taxes—and for what? Perhaps that the subscribers to the cotton loan may save the guilty guineas they have invested in the devil's bank of slavery in the south. [Enthusiastic applause.] Which do you think the most profitable course, to wait a little longer for the cotton, or to buy it at such a cost? And these are the men who cry out against the horrors of war with forty-parson power, who inveigh against the bloodshed, and would plunge us into a war and slaughter ten times more horrible than that which they denounce! [Cheers.] Are these safe counsellors? They would give us carnage instead of cotton, taxation instead of trade, and want instead of wages. [Cheers.] But would you get the cotton even by these means? If we are to have it, we want our supply to rest on a safe basis. If so, I say separation of the south from the north destroys our cotton manufacture—union alone can

save it. Two rival states, parted against the will of the more powerful, and parted through foreign interference, would never be long at peace. Every steamer might bring us tidings of a fresh rupture; we should look forward to every mail with fear, not with hope, lest each new telegram should announce to us another conflict, another war, a new blockade—a fresh panic for our cotton mills—and the old battle of misery and destitution have to be fought once more. And yet you are told it is to the interest of workingmen to recognize the south! Workingmen! I say the south is your enemy—the enemy of your trade, the foe of your freedom—a standing threat to your prosperity. [Applause.] Is it for the slaveholders to appeal to workingmen for sympathy? Slave labor is a direct aggression on the free labor of the world. It competes with you in the world's market, and you must crush it, or it will ruin you. Not yet, perhaps, but ere long. Free scope for the development of slave labor would produce such a labor surplus in the north that immigration would become impossible. Is not America the chief hope and home of the emigrant? Who emigrates to the southern States? Slave labor has closed its portals in your faces—yet it embraces one of the fairest portions of the habitable globe. But that slave power has shown itself not content with its old dominion. It has sought to invade the north, it has sought to overrun the west with slavery. Nay! “Mexico and Central America are open to us,” cry the southern leaders—they publicly avow their intention of spreading slavery among the nations—they are “God-sent missionaries,” they say, and their mission is to “extend slavery wherever God and nature carry it.” Help them, workingmen! help them to close the great continent of America before the army of emigration; help them to roll back the escaping tide upon our surcharged shores, and to meet it all the better, cripple your commerce by war and destroy your resources by taxation.

After speaking at some length of the character of the blacks and of their probable destiny in the race of civilization, Mr. Jones said, in conclusion, I thank you for your kind attention. It is a long time since I last addressed you, and those were stormier times than these. [Cheers and laughter.] I have not forgotten the meetings and gatherings which we had then. [Cheers.] I have not forgotten the men of Rochdale, their love of freedom and truth; and I trust that those who are now struggling, honorably and constitutionally, for the freedom of the black will join in every effort for a fresh instalment towards the charter of an Englishman's liberty. [Applause.] Those who pat the slave-owners of America on the back would like to be slave-owners in England as well. [Cheers, and hear, hear.] I believe that those who come forward at this crisis to advocate the natural rights of the negro in America are really coming forward to advocate the rights of the workingmen in England, [cheers,] and I trust we shall find that in establishing liberty universally throughout the American continent, we shall be placing the crowning pinnacle on the edifice of freedom here as well. [Loud, prolonged, and enthusiastic applause.]

The mayor said before they separated a resolution was to be submitted to the meeting. He thought that as the meeting had been so enthusiastic there would be no opposition; however, the platform was now at liberty for any gentleman who might wish to ask questions.

No person appeared inclined to come forward for that purpose.

Mr. Harley remarked that he was glad of having had the opportunity of listening to an address which he was sure would commend itself to the judgment and intelligence of that large assembly. He should not attempt to make a speech, as his speech was embodied in the resolution he held in his hand, and that resolution he had great pleasure in moving. [Cheers.]

This meeting hereby records its sympathy with President Lincoln in endeavors to maintain the federal Union of America, believing that its disruption would prove a calamity to the cause of freedom and to the interests of civilization.

This meeting further expresses its gratitude to President Lincoln for having procured the liberation of the slaves in the District of Columbia, interdicted slavery in the Territories, enforced the laws against the African slave trade, proposed to purchase the liberty of all slaves in the loyal States, and, as commander-in-chief of the forces, proclaimed unconditional freedom to all bondsmen of the rebel States. This meeting is also desirous that he may continue his noble efforts until a safe and enduring peace be established on the basis of the complete emancipation of every slave in the American States.

The Rev. L. Seddon said he would follow the good example set by the mover of the resolution, and content himself by seconding it. [Cheers.] He agreed with the remarks made by Mr. Jones respecting the negroes; but why were they inferior to other races? Let them treat a white man as negroes had been used, and the negro would rise above him in the scale of intellect. Negroes had been kept down, ill used, and not treated as men. [Hear, hear.]

The resolution was put to the meeting, and carried without a single dissentient.

Mr. R. Ashworth observed that his task was a very easy one, and he was sure all would agree with the resolution he had to propose. He moved that a vote of thanks be given to Mr. Jones for the eloquent way he had made known his views, which views he felt persuaded were held by those present. [Hear, hear, and cheers.]

Mr. Smithies said that he was sure all would agree in saying that Mr. Jones had explained an important subject which but few people understood two years ago. He must acknowledge that his views had changed since that time, and it was through hearing such lectures as the one they had heard that night. He had great pleasure in seconding the resolution.

Mr. Isaac Hoyle, who was in the body of the room, rose and was about to speak, when he was invited on to the platform. After accepting the invitation, he remarked that he was an old chartist of the days alluded to, and as one who had suffered a long term of imprisonment for advocating the rights of his own class, he could not allow the present opportunity to pass without very cordially supporting the vote of thanks to Mr. Jones, and personally thanking that gentleman for the sacrifices and for the exertions he had made in the cause of the people. [Enthusiastic cheers.]

The motion, on being submitted to the meeting, was carried unanimously.

Mr. Jones on rising to acknowledge the compliment was greeted with vociferous cheers. He thanked the audience for listening so attentively, and the mayor for presiding.

Mr. Alderman Healey proposed a vote of thanks to the mayor, remarking that his worship had had comparatively little to do that evening; indeed they had been too unanimous for his own liking. He expected to have seen some opposition, but it appeared the southern gentlemen did not like to show that evening. [Hear, hear.]

Mr. T. Booth seconded the resolution, and on Mr. W. A. Scott putting it to the meeting, the vast assembly signified their approval by unmistakable applause.

After his worship had acknowledged this expression of thanks, the meeting broke up.

Mr. Adams to Mr Seward.

No. 624.]

LEGATION OF THE UNITED STATES,
London, March 18, 1864.

SIR: In regard to the subject-matter of your despatch No. 849, of the 18th of February, I took advantage of a late opportunity informally to present it

to the consideration of Lord Russell. He said that his attention had already been drawn to the question by Lord Lyons. He thought that the difficulty apprehended by Mr. Welles might be obviated by making exceptions in certain cases, which was a contingency provided for in the terms of the Queen's proclamation. I said that I would report this remark as his answer.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

Mr. Adams to Mr. Seward.

[Extract.]

No. 625.]

LEGATION OF THE UNITED STATES,
London, March 18, 1864.

SIR: The proceedings at Liverpool under the demand for the arrest of the pirates concerned in the case of the Joseph L. Gerrity, and their delivery under the treaty, are very slow. The magistrate has repeatedly postponed a decision for the purpose of giving the parties time to show some authority for their acts of outrage.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

Mr. Adams to Mr. Seward

No. 626.]

LEGATION OF THE UNITED STATES,
London, March 18, 1864.

SIR: I have the honor to transmit a copy of an official document printed for the use of Parliament, containing "Correspondence respecting the Tuscaloosa."

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD, &c., &c., &c.

List of Papers.

No. 1. The Secretary to the Admiralty to Mr. Hammond, September 26, 1863—eleven enclosures.

No. 2. Sir F. Rogers to Mr. Hammond, September 29, 1863—forty enclosures.

No. 3. The Secretary to the Admiralty to Mr. Hammond, October 21, 1863—two enclosures.

No. 4. The Secretary to the Admiralty to Mr. Hammond, October 21, 1863—two enclosures.

No. 5. The Secretary to the Admiralty to Mr. Hammond, October 21, 1863.

No. 6. The Secretary to the Admiralty to Mr. Hammond, November 24, 1863.

No. 7. Mr. Elliot to Mr. Hammond, December 9, 1863—one enclosure.

No. 8. Mr. Elliot to Mr. Hammond, January 29, 1864—two enclosures.

No. 9. The Secretary to the Admiralty to Mr. Hammond, February 15, 1864—thirteen enclosures.

No. 10. Sir F. Rogers to Mr. Hammond, February 25, 1864—ten enclosures.

No. 11. The Secretary to the Admiralty to Mr. Hammond, February 25, 1864—eight enclosures.

No. 12. Mr. Elliot to Mr. Hammond, March 7, 1864—one enclosure.

No. 13. Sir F. Rogers to Mr. Hammond, March 11, 1864—one enclosure.

Return to the third paragraph of an address of the House of Lords, dated February 16, 1864, for "Return of claims made by British subjects upon the United States government, sustained either in person or in property, since the secession of the southern States, specifying how and the grounds on which such claims have been disposed of; also correspondence, or extracts from correspondence, relative to the capture of the Saxon by the United States ship Vanderbilt; and also copy of instructions to the colonial authorities relative to the detention of the Tuscaloosa."

No. 1.

The Secretary to the Admiralty to Mr. Hammond.—(Received September 20.)

ADMIRALTY, *September 26, 1863.*

SIR: I am commanded by my lords commissioners of the admiralty to send you herewith, for the information of Earl Russell, a copy of a letter from Rear-Admiral Sir Baldwin Walker, dated the 19th August, with copies of its enclosures, relative to the proceedings of vessels-of-war of the so-styled Confederate States of North America at the Cape of Good Hope.

I am, &c.,

W. G. ROMAINE

[Enclosure 1 in No. 1.]

Rear-Admiral Sir B. Walker to the Secretary to the Admiralty.

"NARCISSUS," SIMON'S BAY, *August 19, 1863.*

SIR: I beg you will be pleased to acquaint my lords commissioners of the admiralty with the following particulars relative to the proceedings of the Confederate States ships-of-war Alabama, her reported tender Tuscaloosa, and the Georgia, which have recently arrived at the Cape of Good Hope.

2. On the 28th of July an English schooner arrived in Table bay, and reported that on the previous day she had been boarded by the confederate steamer Alabama, fifteen miles northwest of Green Point. After some inquiries the Alabama left her, steering southeast.

3. Upon the receipt of this intelligence I ordered Captain Forsyth, of the Valorous, to hold himself in readiness to proceed to any of the ports in this colony where the Alabama might anchor, in order to preserve the rules of strict neutrality.

4. By a letter addressed to the governor of this colony by Captain Semmes, copy of which was telegraphed to me on the 4th instant, it appears that the Alabama had proceeded to Saldanha bay for a few days, anchoring there on the 29th of July.

5. On the 5th instant I received a private telegram, to the effect that the Alabama was off Table bay, when I directed the Valorous immediately to proceed to that anchorage; and shortly afterwards a telegram reached me from the governor stating "that the Alabama had captured a vessel (American) which was in sight, and steering for Table bay." The Valorous reached that bay at 10.15 p. m., where the Alabama had anchored at 3 o'clock in the afternoon of the same day.

6. Captain Forsyth having informed me that the tender to the Alabama had been ordered by Captain Semmes to Simon's bay for provisions, and having learnt that this vessel had been captured off the coast of Brazil, and not been condemned in any prize court, I had doubts as to the legality of considering her in the light of a tender, being under the impression that it was a ruse to disguise the real character of the vessel. I therefore wrote to the governor to obtain the opinion of the attorney general of the colony upon this subject, which correspondence is enclosed.

7. On the 8th of August the tender Tuscaloosa, a sailing bark, arrived in Simon's bay, and the boarding officer having reported to me that her original cargo of wool was still on board, I felt that there were grounds for doubting her real character, and again called the governor's attention to this circumstance. My letter and his reply are annexed. And I would here beg to submit to their lordships' notice that this power of a captain of a ship-of-war to constitute every prize he may take a "tender," appears to me to be likely to lead to abuse and evasion of the laws of strict neutrality, by being used as a means for bringing prizes into neutral ports for disposal of their cargoes, and secret arrangements—which arrangements, it must be seen, could afterwards be easily carried out at isolated places.

8. The Alabama, after lying three days in Table bay, came to this anchorage to caulk and refit. She arrived here on the 9th and sailed again on the 15th instant. Captain Semmes was guarded in his conduct, and expressed himself as most anxious not to violate the neutrality of these waters.

9. I should observe that, from the enclosed copy of a letter from Captain Forsyth to the governor, it would appear that the vessel Sea Bride, taken by the Alabama off Table bay, was beyond the jurisdiction of neutral territory.

10. During his passage to this port Captain Semmes chased another American vessel, the Martha Wentzel, standing in for Table bay. On my pointing out to him that he had done so in neutral waters, he assured me that it was quite unintentional, and, being at a distance from the land, he did not observe that he had got within three miles of an imaginary line drawn from the Cape of Good Hope to Cape Hanglip, but on discovering it he did not detain the vessel. This explanation I considered sufficient.

11. The tender Tuscaloosa, having been detained by a strong southeaster, got under way for the purpose of going to sea on the 14th instant, but anchored again a little distance from the Roman Rock light-house in consequence of a thick fog prevailing.

12. The Alabama did not take in any coal, either here or at Table bay, but after being caulked she proceeded to sea on the 15th instant, followed by the Tuscaloosa. Their destinations are unknown.

13. On the 16th instant the Confederate States steamer Georgia, commander Maury, anchored in this bay. She requires coal, provisions, and caulking. This vessel did not meet the Alabama outside.

14. The Florida, another Confederate States steamer, is reported to be off this coast, probably cruising to intercept the homeward-bound American ships from China; indeed, it is with that object these ships are on this part of the station.

15. I have learnt, since the departure of the Alabama and her so-called tender, that overtures were made by some parties in Cape Town to purchase the cargo of wool, but, being unsatisfactory, they were not accepted. It is reported to be Captain Semmes's intention to destroy the Tuscaloosa at sea.

16. The Alabama is a steamer of about 900 tons, with 8 guns and 150 men. The Georgia is an iron steamer of about 700 tons, with 5 guns and 110 men. The Tuscaloosa is a sailing bark of 500 tons, having 2 small guns and 10 men.

I have, &c.,

B. W. WALKER.

[Enclosure 2 in No. 1.]

Captain Semmes, Confederate States navy, to Governor Sir P. Wodehouse:

CONFEDERATE STATES STEAMER ALABAMA,
Saldanha Bay, August 1, 1863.

SIR: An opportunity is offered me by the coasting schooner *Atlas* to communicate with the Cape, of which I promptly avail myself.

I have the honor to inform your excellency that I arrived in this bay on Wednesday morning last for the purpose of effecting some necessary repairs. As soon as these repairs can be completed I will proceed to sea, and in the mean time your excellency may rest assured that I will pay the strictest attention to the neutrality of your government.

I have, &c.,

R. SEMMES.

[Enclosure 3 in No. 1.]

Captain Forsyth to Rear-Admiral Sir B. Walker.

"VALOROUS," TABLE BAY, *August 6, 1863.*

SIR: I have the honor to report my arrival here at 10.15 p. m. last evening, and found the confederate steamer *Alabama* had anchored at 3 p. m. previously.

This morning I put myself in communication with the commander of that vessel, and he informs me he intends leaving this anchorage at daylight to-morrow, or as soon as he has provisioned, and he proceeds to Simon's bay for repairs; he also informed me he had a tender which he left cruising outside, and had ordered her to Simon's bay, there to procure provisions.

On my visiting his excellency the governor he requested I would remain here a few days, provided you had no objections, in case of the arrival of the confederate vessel *Florida*, which is expected.

I have, &c.,

CHARLES C. FORSYTH.

[Enclosure 4 in No. 1.]

Rear-Admiral Sir B. Walker to Governor Sir P. Wodehouse.

"NARCISSUS," SIMON'S BAY, *August 7, 1863.*

SIR: Captain Forsyth having informed me that the *Alabama* has a tender outside captured by Captain Semmes on the coast of America, and commissioned by one of the *Alabama's* lieutenants, and as this vessel has been ordered into Simon's bay for provisions, may I request your excellency will be good enough to obtain the opinion of the law officers whether this vessel ought still to be looked upon in the light of a prize, she never having been condemned in a prize court; the instructions, copy of which I enclose, strictly forbidding prizes captured by either of the contending parties in North America being admitted into our ports.

I have, &c.,

B. W. WALKER.

[Enclosure 5 in No. 1.]

Extract from "Wheaton's Elements of International Law," (vol. ii, p. 88.)

The title to property lawfully taken in war may, upon general principles, be considered as immediately divested from the original owner and transferred to the captor. This general principle is modified by the positive law of nations, in its application both to personal and real property. As to personal property or movables, the title is, in general, considered as lost to the former proprietor as soon as the enemy has acquired a firm possession, which, as a general rule, is considered as taking place after the lapse of twenty-four hours. The established usage of maritime nations has excepted from the operation of this rule the case of ships and goods captured at sea, the original title to which is not generally considered as completely divested until carried *infra præsidia*, and regularly condemned in a competent court of prize.

[Enclosure 6 in No. 1.]

*Governor Sir P. Wodehouse to Rear-Admiral Sir B. Walker.*GOVERNMENT HOUSE, CAPE TOWN, *August 8, 1863.*

SIR: I have the honor to acknowledge the receipt of your excellency's letter of yesterday's date, and to enclose the copy of an opinion given by the acting attorney general to the effect that the vessel to which you refer ought to be regarded as a tender and not as a prize.

I shall take care to submit this question to her Majesty's government by the next mail, but in the mean time I conclude that your excellency will be prepared to act on the opinion of the attorney general in respect to any vessels which may enter these ports in the character of prizes converted into ships-of-war by the officers of the navy of the Confederate States.

I have, &c.,

P. E. WODEHOUSE.

[Enclosure 7 in No. 1.]

Extract from "Wheaton's Elements of International Law."

What constitutes a setting forth as a vessel-of-war has been determined by the British courts of prize, in cases arising under the clause in the act of Parliament, which may serve for the interpretation of our own law, as the provisions are the same in both. Thus it has been settled that where a ship was originally armed for the slave trade, and after capture an additional number of men were put on board, but there was no commission of war and no additional arming, it was not a setting forth as a vessel-of-war under the act. But a commission of war is decisive if there be guns on board, and where the vessel after the capture has been fitted out as a privateer, it is conclusive against her, although, when recaptured, she is navigating as a mere merchant ship; for where the former character of a captured vessel had been obliterated by her conversion into a ship-of-war, the legislature meant to look no further, but considered the title of the former owner forever extinguished. Where it appeared that the vessel had been engaged in a military service of the enemy, under the direction of his minister of the marine, it was held as a sufficient proof of a setting forth as a vessel-of-war; so where the vessel is armed, and is employed in the public military service of the enemy by those who have competent authority so to employ it, although it be not regularly commissioned. But the mere employ-

ment in the enemy's military service is not sufficient; but if there be a fair semblance of authority in the person directing the vessel to be so employed, and nothing upon the face of the proceedings to invalidate it, the court will presume that he is duly authorized; and the commander of a single ship may be presumed to be vested with this authority as commander of a squadron.

[Enclosure 8 in No. 1.]

Rear-Admiral Sir B. Walker to Governor Sir P. Wodehouse.

"NARCISSUS," SIMON'S BAY, August 8, 1863.

SIR: I have the honor to acknowledge the receipt of your excellency's letter of this day's date, covering the written opinion of the acting attorney general of this colony as to the legality of the so-called tender to the Confederate States armed ship Alabama, and for which I beg to express my thanks.

The vessel in question, now called the Tuscaloosa, arrived here this evening, and the boarding officer from my flag-ship obtained the following information:

That she is a bark of five hundred tons, with two small rifled 12-pounder guns and ten men, and was captured by the Alabama on the 21st June last, off the coast of Brazil—cargo of wool still on board.

The admission of this vessel into port will, I fear, open the door for numbers of vessels-captured under similar circumstances being denominated tenders, with a view to avoid the prohibition contained in the Queen's instructions; and I would observe that the vessel Sea Bride, captured by the Alabama off Table bay a few days since, or all other prizes, might be in like manner styled tenders, making the prohibition entirely null and void.

I apprehend that to bring a captured vessel under the denomination of a vessel-of-war, she must be fitted for warlike purposes, and not merely have a few men and two small guns put on board her (in fact nothing but a prize crew) in order to disguise her real character as a prize.

Now this vessel has her original cargo of wool still on board, which cannot be required for warlike purposes, and her armament and the number of her crew are quite insufficient for any services other than those of slight defence.

Viewing all the circumstances of the case, they afford room for the supposition that the vessel is styled a "tender" with the object of avoiding the prohibition against her entrance as a prize into our ports, where, if the captors wished, arrangements could be made for the disposal of her valuable cargo, the transshipment of which, your excellency will not fail to see, might be readily effected on any part of the coast beyond the limits of this colony.

My sole object in calling your excellency's attention to the case is to avoid any breach of strict neutrality.

I have, &c.,

B. W. WALKER.

[Enclosure 9 in No. 1.]

Governor Sir P. Wodehouse to Rear-Admiral Sir B. Walker.

GOVERNMENT HOUSE, CAPE TOWN, August 10, 1863.

SIR: I have the honor to acknowledge the receipt of your excellency's letter of the 8th instant, on which I have consulted the acting attorney general.

The information given respecting the actual condition of the Tuscaloosa is somewhat defective, but referring to the extract from Wheaton, transmitted in my last letter, the attorney general is of opinion that if the vessel received the

two guns from the Alabama or other confederate vessel-of-war, or if the person in command of her has a commission of war, or if she be commanded by an officer of the confederate navy, in any of these cases there will be a sufficient setting forth as a vessel-of-war to justify her being held to be a ship-of-war; if all of these points be decided in the negative, she must be held to be only a prize, and ordered to leave forthwith.

I have, &c.,

P. E. WODEHOUSE,

[Enclosure 10 in No. 1.]

Rear-Admiral Sir B. Walker to Governor Sir P. Wodehouse.

"NARCISSUS," SIMON'S BAY, August 11, 1863.

SIR: I have the honor to acknowledge the receipt of your excellency's letter, dated yesterday, respecting the confederate bark Tuscaloosa, now in this bay.

As there are two guns on board, and an officer of the Alabama in charge of her, the vessel appears to come within the meaning of the cases cited in your above-mentioned communication.

I have, &c.,

B. W. WALKER.

[Enclosure 11 in No. 1.]

Captain Forsyth to Governor Sir P. Wodehouse.

"VALOROUS," TABLE BAY, August 6, 1863.

SIR: In compliance with the request conveyed to me by your excellency, I have the honor to report that I have obtained from Captain Semmes a statement of the positions of the Confederate States steamer Alabama and the American bark Sea Bride when the latter was captured yesterday afternoon.

Captain Semmes asserts that, at the time of his capturing the Sea Bride, Green Point light-house bore, from the Alabama, southeast about 6 or 6½ miles.

This statement is borne out by the evidence of Captain Wilson, port captain of Table bay, who has assured me that at the time of the Sea Bride being captured he was off Green Point in the port boat, and that only the top of the Alabama's hull was visible.

I am of opinion that, if Captain Wilson could only see that portion of the hull of the Alabama, she must have been about the distance from the shore which is stated by Captain Semmes, and I have therefore come to the conclusion that the Sea Bride was beyond the limits assigned when she was captured by the Alabama.

I have, &c.,

CHARLES C. FORSYTH.

No. 2.

Sir F. Rogers to Mr. Hammond.—(Received September 30.)

DOWNING STREET, September 29, 1863.

SIR: I am directed by the Duke of Newcastle to transmit to you, for the consideration of Earl Russell, the enclosed copy of a despatch from the governor of the Cape of Good Hope, reporting the arrival at the Cape of the confederate steamer Alabama, and requesting instructions on many questions that have arisen from the state of affairs consequent on the presence of this vessel in the colony.

I am, &c.,

F. ROGERS.

[Enclosure 1 in No. 2.]

Governor Sir P. E. Wodehouse to the Duke of Newcastle.

[Extract.]

GOVERNMENT HOUSE, CAPE TOWN, *August 19, 1863.*

I beg to take this opportunity of making your grace acquainted with what has occurred here in connexion with the visit of the Confederate States steamer *Alabama*.

On Tuesday, the 4th instant, I received a letter from the commander of that vessel, dated the 1st of August, at Saldanha bay, announcing his having entered that bay with a view of effecting certain repairs, and stating that he would put to sea as soon as they were completed, and would strictly respect our neutrality.

When this intelligence was received, the United States consul called on me to seize her, or at any rate to send her away instantly; but as the vessel which brought the news reported that the *Alabama* was coming immediately to Table bay, I replied that I could not seize her, but would take care to enforce the observance of the neutrality regulations.

On the next day, about noon, it was reported from the signal station that the *Alabama* was steering for Table bay, from the north, and that a federal bark was coming in from the westward; and soon after that the latter had been captured and put about. A little after 2 p. m. the United States consul called to state that he had seen the capture effected within British waters; when I told him he must make his statement in writing, and an investigation should be made. I also, by telegram, immediately requested the naval commander-in-chief to send a ship-of-war from Simon's bay. The *Alabama*, leaving her prize outside, anchored in the bay at 3.30 p. m., when Captain Semmes wrote to me that he wanted supplies and repairs, as well as permission to land thirty-three prisoners. After communicating with the United States consul, I authorized the latter, and called upon him to state the nature and extent of his wants, that I might be enabled to judge of the time he ought to remain in the port. The same afternoon he promised to send the next morning a list of the stores needed, and announced his intention of proceeding with all despatch to Simon's bay to effect his repairs there. The next morning (August 6) the paymaster called on me with the merchant who was to furnish the supplies, and I granted him leave to stay till noon of the 7th.

On the night of the 5th her Majesty's ship *Valorous* had come round from Simon's bay. During the night of the 6th the weather became unfavorable; a vessel was wrecked in the bay, and a heavy sea prevented the *Alabama* from receiving her supplies by the time arranged. On the morning of the 8th Captain Forsyth, of the *Valorous*, and the port captain, by my desire, pressed on Captain Semmes the necessity for his leaving the port without any unnecessary delay; when he pleaded the continued heavy sea and the absence of his cooking apparatus, which had been sent on shore for repairs, and had not been returned by the tradesman at the time appointed, and intimated his own anxiety to get away. Between 6 and 7 a. m. on Sunday, the 9th, he sailed, and on his way round to Simon's bay captured another vessel, but, on finding that she was in neutral waters, immediately released her.

In the mean time the United States consul had, on the 5th of August, addressed to me a written statement that the federal bark *Sea Bride* had been taken "about four miles from the nearest land," and "already in British waters;" on which I promised immediate inquiry. The next day the consul repeated his protest, supporting it by an affidavit of the master of the prize, which he held, to show that she had been taken about two miles and a half from the land; and the agent for the United States underwriters, on the same day, made a similar

protest. On the 7th the consul represented that the prize had, on the previous day, been brought within one mile and a half of the light-house, which he considered as much a violation of the neutrality as if she had been there captured, and asked me to have the prize crew taken out and replaced by one from the *Valorous*, which I declined.

I had, during this period, been seeking for authentic information as to the real circumstances of the capture, more particularly with reference to the actual distance from the shore, and obtained through the acting attorney general statements from the keeper of the Green Point light-house, (this was supported by the collector of customs,) from the signalman at the station on the *Lion's Rump*, and from an experienced boatman who was passing between the shore and the vessels at the time. Captain Forsyth, of the *Valorous*, also made inquiries of the captain of the *Alabama* and of the port captain, and made known the result to me. And upon all these statements I came to the conclusion that the vessels were not less than four miles distant from land; and on the 8th I communicated to the United States consul that the capture could not, in my opinion, be held to be illegal by reason of the place at which it was effected.

In his reply of the 10th the consul endeavored to show how indefensible my decision must be, if, in these days of improved artillery, I rested it on the fact of the vessels having been only three miles from land. This passage is, I think, of considerable importance, as involving an indirect admission that they were not within three miles at the time of the capture. And I hope your grace will concur in my view that it was not my duty to go beyond what I found to be the distance clearly established by past decisions under international law.

An important question has arisen in connexion with the *Alabama*, on which it is very desirable that I should, as soon as practicable, be made acquainted with the views of her Majesty's government. Captain Semmes had mentioned, after his arrival in port, that he had left outside one of his prizes previously taken, the *Tuscaloosa*, which he had equipped and fitted as a tender, and had ordered to meet him in Simon's bay, as she also stood in need of supplies. When this became known to the naval commander-in-chief, he requested me to furnish him with a legal opinion; and whether this vessel could be held to be a ship-of-war before she had been formally condemned in a prize court; or whether she must not be held to be still a prize, and as such prohibited from entering our ports. The acting attorney general, founding his opinion on Earl Russell's despatch to your grace of the 31st of January, 1862, and on "Wheaton's International Law," stated, in substance, that it was open to Captain Semmes to convert this vessel into a ship-of-war, and that she ought to be admitted into our ports on that footing.

On the 8th of August the vessel entered Simon's bay, and the admiral wrote that she had two small rifled guns, with a crew of ten men, and that her cargo of wool was still on board. He was still doubtful of the propriety of admitting her.

On the 10th of August, after further consultation with the acting attorney general, I informed Sir Baldwin Walker that, if the guns had been put on board by the *Alabama*, or if she had a commission of war, or if she were commanded by an officer of the confederate navy, there must be held to be a sufficient setting forth as a vessel-of-war to justify her admission into port in that character.

The admiral replied in the affirmative on the first and last points, and she was admitted.

The *Tuscaloosa* sailed from Simon's bay on the morning of the 14th instant, but was becalmed in the vicinity until the following day, when she sailed about noon. The *Alabama* left before noon on the 15th instant. Neither of these vessels was allowed to remain in port longer than was really necessary for the completion of their repairs.

On the 16th, at noon, the *Georgia*, another confederate war steamer, arrived at Simon's bay in need of repairs, and is still there.

Before closing this despatch I wish particularly to request instructions on a point touched on in the letter from the United States consul of the 17th instant, viz: the steps which should be taken here in the event of the cargo of any vessel captured by one of the belligerents being taken out of the prize at sea, and brought into one of our ports in a British or other neutral vessel.

Both belligerents are strictly interdicted from bringing their prizes into British ports by Earl Russell's letter to the lords of the admiralty of the 1st of June, 1861, and I conceive that a colonial government would be justified in enforcing compliance with that order by any means at its command, and by the exercise of force, if it should be required.

But that letter refers only to "prizes," that is, I conceive, to the ships themselves, and makes no mention of the cargoes they may contain. Practically the prohibition has been taken to extend to the cargoes; and I gathered, from a conversation with Captain Semmes on the subject of our neutrality regulations, that he considered himself debarred from disposing of them, and was thus driven to the destruction of all that he took. But I confess that I am unable to discover by what legal means I could prevent the introduction into our ports of captured property purchased at sea, and tendered for entry at the custom-house in the usual form from a neutral ship. I have consulted the acting attorney general on the subject, and he is not prepared to state that the customs authorities would be justified in making a seizure under such circumstances; and therefore, as there is great probability of clandestine attempts being made to introduce cargoes of this description, I shall be glad to be favored with the earliest practicable intimation of the views of her Majesty's government on the subject.

[For enclosure 2 in No 2, Captain Semmes to Sir P. Wodehouse, August 1, 1863, see enclosure 2 in No. 1.]

[Enclosure 3 in No. 2.]

Captain Semmes, C. S. N., to Sir P. Wodehouse.

"ALABAMA," TABLE BAY, August 5, 1863.

SIR: I have the honor to inform your excellency of my arrival in this bay in the Confederate States steamer *Alabama*, under my command. I have come in for supplies and repairs, and in the mean time I respectfully ask leave to land in Cape Town thirty-three prisoners, lately captured by me on board two of the enemy's ships destroyed at sea. The United States consul will doubtless be glad to extend such hospitality and assistance to his distressed countrymen, as is required of him by law.

I have, &c.,

SEMMEs.

[Enclosure 4 in No. 2.]

Sir P. Wodehouse to Captain Semmes, C. S. N.

GOVERNMENT HOUSE, CAPE TOWN, August 5, 1863.

SIR: I have the honor to acknowledge the receipt of your letter announcing your arrival in this port, and to state that I have no objection to offer to your landing the prisoners now detained in your ship.

I have further to beg that you will be good enough to state the nature and extent of the supplies and repairs you require, that I may be enabled to form some estimate of the time for which it will be necessary for you to remain in this port.

I have, &c.,

P. E. WODEHOUSE.

[Enclosure 5 in No. 2.]

Captain Semmes, C. S. N., to Sir P. Wodehouse

"ALABAMA," TABLE BAY, August 5, 1863.

SIR: I have had the honor to receive your letter of this day's date, giving me permission to land my prisoners, and requesting me to state the nature of the supplies and repairs which I may require. In the way of supplies, I shall need some provisions for my crew, a list of which will be handed you to-morrow by the paymaster; and as for repairs, my boilers need some iron work to be done, and my bends require caulking, being quite open. I propose to take on board the necessary materials here, and to proceed with all despatch to Simon's bay for the purpose of making these repairs.

I have, &c.,

R. SEMMES.

[Enclosure 6 in No. 2.]

Mr. Adamson to Captain Semmes, C. S. N.

COLONIAL OFFICE, CAPE TOWN, August 6, 1863.

SIR: I am directed by the governor of this colony to acquaint you that he has received from the consul for the United States at this port a representation, in which he sets forth that an American bark was yesterday captured by the ship which you command in British waters, in violation of the neutrality of the British government, and claims from him redress for the alleged outrage.

His excellency will be glad, therefore, to receive from you any explanation you may wish to give as to the circumstances in which the capture was effected.

I have, &c.,

L. ADAMSON.

For Colonial Secretary.

[Enclosure 7 in No. 2.]

Captain Semmes, C. S. N., to Mr. Adamson.

CONFEDERATE STATES STEAMER ALABAMA, CAPE TOWN,

August 6, 1863.

SIR: I have had the honor to receive your communication of this day's date, informing me that the United States consul at this port had presented to his excellency the governor a representation, in which he sets forth that an American bark was yesterday captured by this ship under my command in British waters, in violation of the neutrality of the British government, and requesting me to make to his excellency such representation as I may have to offer on this subject.

In reply, I have the honor to state that it is not true that the bark referred to was captured in British waters, and in violation of British neutrality; she having been captured outside all headlands, and a distance from the nearest

land of between five and six miles. As I approached this vessel I called the particular attention of my officers to the question of distance, and they all agreed that the capture was made from two to three miles outside of the marine league.

I have, &c.,

R. SEMMES.

[Enclosure 8 in No. 2.]

Mr. Graham to Sir P. Wodehouse.

UNITED STATES CONSULATE, CAPE TOWN,

August 4, 1863.

SIR: From reliable information received by me, and which you are also doubtless in possession of, a war steamer called the *Alabama* is now in Saldanha bay being painted, discharging prisoners of war, &c.

The vessel in question was built in England to prey upon the commerce of the United States of America, and escaped therefrom while on her trial trip, forfeiting bonds of £20,000, which the British government exacted under the foreign enlistment act.

Now, as your government has a treaty of amity and commerce with the United States, and has not recognized the persons in revolt against the United States as a government at all, the vessel alluded to should be at once seized and sent to England, from whence she clandestinely escaped. Assuming that the British government was sincere in exacting the bonds, you have, doubtless, been instructed to send her home to England, where she belongs. But if, from some oversight, you have not received such instructions, and you decline the responsibility of making the seizure, I would most respectfully protest against the vessel remaining in any port of the colony another day. She has been at Saldanha bay four [six] days already, and a week previously on the coast, and has forfeited all right to remain an hour longer by this breach of neutrality. Painting a ship does not come under the head of "necessary repairs," and is no proof that she is unseaworthy; and to allow her to visit other ports after she has set the Queen's proclamation of neutrality at defiance would not be regarded as in accordance with the spirit and purpose of that document.

Yours, &c.,

WALTER GRAHAM,

United States Consul.

[Enclosure 9 in No. 2.]

Mr. Adamson to Mr. Graham.

COLONIAL OFFICE, *August 5, 1863.*

SIR: I am directed by the governor to acknowledge the receipt of your letter of yesterday's date relative to the *Alabama*.

His excellency has no instructions, neither has he any authority, to seize or detain that vessel; and he desires me to acquaint you that he has received a letter from the commander, dated the 1st instant, stating that repairs were in progress, and as soon as they were completed he intended to go to sea. He further announces his intention of respecting strictly the neutrality of the British government.

The course which Captain Semmes here proposes to take is, in the governor's opinion, in conformity with the instructions he has himself received relative to ships-of-war and privateers belonging to the United States and the States calling themselves the Confederate States of America visiting British ports.

The reports received from Saldanha bay induce the governor to believe that the vessel will leave that harbor as soon as her repairs are completed; but he will immediately, on receiving intelligence to the contrary, take the necessary steps for enforcing the observance of the rules laid down by her Majesty's government.

I have, &c.,

L. ADAMSON,
For the Colonial Secretary.

[Enclosure 10 in No. 2.]

Mr. Graham to Sir P. Wodehouse.

UNITED STATES CONSULATE, CAPE TOWN,
August 5, 1863.

SIR: The confederate steamer Alabama has just captured an American bark off Green Point, or about four miles from the nearest land (Robben island.) I witnessed the capture with my own eyes, as did hundreds of others at the same time. This occurrence at the entrance of Table bay, and clearly in British waters, is an insult to England, and a grievous injury to a friendly power, the United States.

Towards the government of my country and her domestic enemies the government of England assumes a position of neutrality, and if the neutrality can be infringed with impunity in this bold and daring manner, the government of the United States will no doubt consider the matter as one requiring immediate explanation.

Believing that the occurrence was without your knowledge or expectation, and hoping you will take such steps to redress the outrage as the exigency requires,

I am, &c.,

WALTER GRAHAM,
United States Consul.

[Enclosure 11 in No. 2.]

Mr. Rawson to Mr. Graham.

COLONIAL OFFICE, *August 6, 1863.*

SIR: I am directed by the governor to acknowledge the receipt of your letter of yesterday's date respecting the capture of the Sea Bride by the Alabama, and to acquaint you that he will lose no time in obtaining accurate information as to the circumstances of the capture.

I have, &c.,

RAWSON W. RAWSON,
Colonial Secretary.

[Enclosure 12 in No. 2.]

Mr. Graham to Sir P. Wodehouse.

UNITED STATES CONSULATE, CAPE TOWN,
August 6, 1863.

SIR: I have the honor to acknowledge the receipt of your despatch of this date.

I beg now to enclose, for your excellency's perusal, the affidavit of Captain Charles F. White, of the *Sea Bride*, protesting against the capture of said bark in British waters. The bearings taken by him at the time of capture conclusively show that she was in neutral waters, being about two and a half miles from Robben island. This statement is doubtless more satisfactory than the testimony of persons who measured the distance by the eye.

I believe that there is no law defining the word "coast" other than international law. That law has always limited neutral waters to the fighting distance from land, which, upon the invention of gunpowder, was extended to a distance of three nautical miles from land on a straight coast, and by the same rule, since the invention of the Armstrong rifled cannon, to at least six miles.

But all waters enclosed by a line drawn between two promontories or headlands are recognized by all nations as neutral, and England was the first that adopted the rule, calling such waters the "King's chambers." By referring to "Wheaton's Digest," page 234, or any other good work on international law, you will find the above rules laid down and elucidated.

The fact that the prize has not already been burned, and that her fate is still in suspense, is clear proof that Captain Semmes had misgivings as to the legality of the capture, and awaits your excellency's assent. If you decide that the prize was legally taken, you will assume a responsibility which Captain Semmes himself declined to take.

I have, &c.,

WALTER GRAHAM,
United States Consul.

[Enclosure 13 in No. 2.]

Affidavit of C. F. White.

UNITED STATES CONSULATE, CAPE TOWN,
August 6, 1863.

On this 6th day of August, A. D. 1863, personally appeared before me, Walter Graham, consul of the United States at Cape Town, Charles F. White, master of the bark *Sea Bride*, of Boston, from New York, and declared on affidavit that, on the 3d day of August instant, he sighted Table mountain and made for Table bay, but that on the 4th instant, night coming on, he was compelled to stand out. On the 5th instant he again made for the anchorage, and about 2 p. m. saw a steamer standing towards the bark, which he supposed was the English mail-steamer, but on nearing her he found her to be the confederate steamer *Alabama*. He, Captain White, was peremptorily ordered to heave his vessel to as a prize to the *Alabama*. One gun was first fired, and immediately after the demand was made another gun was fired. Two boats were lowered from the *Alabama* and sent on board the bark. The officer in charge of these boats demanded the ship's papers, which the said master was compelled to take on board the said steamer. This happened about a quarter before 3 o'clock. He and his crew were immediately taken from his vessel and placed as prisoners on board the *Alabama*, the officers and crew being put in irons. The position of the bark at the time of capture was as follows: Green Point light-house bearing south by east; Robben Island light-house, northeast.

The said appearer did further protest against the illegal capture of said vessel, as she was in British waters at the time of capture, according to bearings.

Thus done and protested before me, the said consul, the day, month, and year above written.

WALTER GRAHAM,
United States Consul.

CHARLES F. WHITE,
Master of Sea Bride.

[Enclosure 14 in No. 2.]

Mr. Rawson to Mr. Graham.

COLONIAL OFFICE, *August 7, 1863,*

SIR: I am directed by the governor to acknowledge the receipt of your letter of yesterday's date, enclosing an affidavit made by the master of the Sea Bride, and to acquaint you that an inquiry into them is now in progress.

I have, &c.,

RAWSON W. RAWSON,
Colonial Secretary.

[Enclosure 15 in No. 2.]

Mr. Graham to Sir P. Wodehouse.

UNITED STATES CONSULATE, CAPE TOWN,
August 7, 1863.

SIR: Understanding from your letter of this date, received this morning, that the case of the Sea Bride is still pending, I enclose the affidavits of the first officer of that vessel and the cook and steward, which I hope will throw additional light on the subject.

From the affidavit of the first officer it appears that the alleged prize was brought within one and a half mile of Green Point light-house yesterday, at 1 o'clock p. m. Now, as the vessel was at that time in charge of a prize crew, it was a violation of neutrality as much as if the capture had been made at the same distance from land.

Pending your decision of the case, I would most respectfully suggest that the prize crew on board the Sea Bride be removed, and that the vessel be put in charge of a crew from her Majesty's ship Valorous.

I have, &c.,

WALTER GRAHAM,
United States Consul.

[Enclosure 16 in No. 2.]

Affidavit of James Robertson.

UNITED STATES CONSULATE, CAPE TOWN,
Cape of Good Hope, August 7, 1863.

On the day and date hereof, before me, Walter Graham, consul for the United States of America at Cape Town, personally came and appeared James Robertson, cook and steward of the bark Sea Bride, an American vessel, and made affidavit that he was on board said bark on the night of the 5th day of August instant, after the said bark had been captured as a prize by the confederate steamer Alabama, and a prize crew put on board. That at about five minutes before 2 o'clock a. m. of the 6th instant the prize crew on board the said bark received a signal from the Alabama aforesaid to burn the said bark, and immediately all hands were called to execute that order. That the sails were clewed, a tar barrel taken from underneath the top-gallant forecabin and placed in the forecabin, and a bucket full of tar with other combustibles and ammunition

ordered on the cabin table, but that when these arrangements were completed another signal was received from the said Alabama, countermanding the order to burn the said prize and to stand off and on the land until daylight, which orders were obeyed.

JAMES ROBERTSON,
Steward, Bark Sea Bride.

Witness my hand and official seal this 7th day of August, 1863.
WALTER GRAHAM,
United States Consul.

—
[Enclosure 17 in No. 2.]

Affidavit of John Schofield.

UNITED STATES CONSULATE, CAPE TOWN,
Cape of Good Hope, August 7, 1863.

On the day and date hereof, before me, Walter Graham, consul for the United States of America at Cape Town, personally came and appeared John Schofield, first officer of the bark Sea Bride, of Boston, who made affidavit that he was on board of said vessel at 1 o'clock p. m. yesterday, the 6th day of August instant, while she was in possession of a prize crew of the steamer Alabama; that he took the bearings of said bark at that time, which were as follows: Robben Island light-house bore northeast by north one-half north, Green Point light-house bore southwest one-half west.

He also deposed that the officer in command of the bark came on deck about that time, and stamping his foot as if chagrined to find her so near the land, ordered her further off, which was done immediately.

JOHN SCHOFIELD,
Late 1st officer of Bark Sea Bride.

Witness my hand and official seal this 7th day of August, 1863.
WALTER GRAHAM,
United States Consul.

—
[Enclosure 18 in No. 2.]

Mr. Adamson to Mr. Graham.

COLONIAL OFFICE, *August 7, 1863.*

SIR: I am directed by the governor to acknowledge the receipt of your letter of this date, enclosing two affidavits relative to the Sea Bride, and to state that his excellency is not prepared to admit that the fact of that vessel having been brought by the prize crew within one and a half mile of the Green Point light-house "was a violation of the neutrality as much as if the capture had taken place at the same distance from land," although both the belligerents are prohibited from bringing their prizes into British ports.

The governor does not feel warranted in taking steps for the removal of the prize crew from the Sea Bride.

I have, &c.,

L. ADAMSON,
For the Colonial Secretary.

[Enclosure 19 in No. 2.]

Mr. Rawson to Mr. Graham.

COLONIAL OFFICE, August 8, 1863.

SIR: With reference to the correspondence that has passed relative to the capture by the Confederate States steamer Alabama of the bark Sea Bride, I am directed by the governor to acquaint you that, on the best information he has been enabled to procure, he has come to the conclusion that the capture cannot be held to be illegal, or in violation of the neutrality of the British government, by reason of the distance from land at which it took place.

His excellency will, by next mail, make a full report of the case to her Majesty's government.

I have, &c,

RAWSON W. RAWSON,
Colonial Secretary.

[Enclosure 20 in No. 2.]

Mr. Graham to Sir P. Wodehouse.

UNITED STATES CONSULATE, CAPE TOWN,
August 10, 1863.

SIR: Your decision in the case of the Sea Bride was duly received at 4 o'clock p. m. on Saturday. In communicating that decision you simply announce that the vessel was, in your opinion, and according to evidence before you, a legal prize to the Alabama; but you omit to state the principle of international law that governed your decision, and neglect to furnish me with the evidence relied upon by you.

Under these circumstances, I can neither have the evidence verified or rebutted here, nor am I enabled to transmit it as it stands to the American minister at London, nor to the United States government at Washington. An invitation to be present when the *ex parte* testimony was taken was not extended to me, and I am therefore ignorant of the tenor of it, and cannot distinguish the portion thrown out from that which was accepted. If your decision is that the neutral waters of this colony only extend a distance of three miles from land, the character of that decision would have been aptly illustrated to the people of Cape Town had an American war vessel appeared on the scene, and engaged the Alabama in battle. In such a contest, with cannon carrying a distance of six miles, (three over land,) the crashing buildings in Cape Town would have been an excellent commentary on your decision.

But the decision has been made and cannot be revoked here, so that further comment at present is, therefore, unnecessary. It can only be reversed by the government you represent, which it probably will be when the United States government shall claim indemnity for the owners of the Sea Bride.

An armed vessel named the Tuscaloosa, claiming to act under the authority of the so-called Confederate States, entered Simon's bay on Saturday, the 8th instant. That vessel was formerly owned by citizens of the United States, and while engaged in lawful commerce was captured as a prize by the Alabama. She was subsequently fitted out with arms by the Alabama to prey upon the commerce of the United States, and now, without having been condemned as a prize by any admiralty court of any recognized government, she is permitted to enter a neutral port in violation of the Queen's proclamation, with her original

cargo on board. Against this proceeding I hereby most emphatically protest and I claim that the vessel ought to be given up to her lawful owners. The capture of the Sea Bride in neutral waters, together with the case of the Tuscaloosa, also a prize, constitute the latest and best illustration of British neutrality that has yet been given.

I have, &c.,

WALTER GRAHAM,
United States Consul.

[Enclosure 21 in No. 2.]

Mr. Rawson to Mr. Graham.

COLONIAL OFFICE, *August 10, 1863.*

SIR: I am directed by the governor to acknowledge the receipt of your letter of this date, and to state, with reference to that part of it which relates to the Tuscaloosa, that his excellency is still in correspondence with the commander-in-chief respecting the character of that vessel, and the privileges to which she is entitled.

I have, &c.,

RAWSON W. RAWSON,
Colonial Secretary.

[Enclosure 22 in No. 2.]

Mr. Graham to Sir P. Wodehouse.

UNITED STATES CONSULATE, CAPE TOWN,
August 12, 1863.

SIR: Upon receiving your last communication to me, dated the 10th instant, I deemed it simply a report of progress on one subject treated of in my last letter to your excellency, and I have therefore waited anxiously for the receipt of another letter from the colonial secretary communicating the final result in that case. Failing to receive it, and hearing yesterday p. m. that the Tuscaloosa would proceed to sea from Simon's bay to-day, I applied for an injunction from the supreme court to prevent the vessel sailing before I had an opportunity of showing by witnesses that she is owned in Philadelphia, in the United States; that her true name is Conrad; that she has never been condemned as a prize by any legally constituted admiralty court; and that I am *ex officio* the legal agent of the owners, underwriters, and all others concerned. I have not yet learned the result of that application, and fearing that delay may allow her to escape, I would respectfully urge you to detain her in port until the proper legal steps can be taken.

I am well aware that your government has conceded to the so-called Confederate States the rights of belligerents, and is thereby bound to respect Captain Semmes's commission; but having refused to recognize the confederacy as a nation, and having excluded his captures from all the ports of the British empire, the captures necessarily revert to their real owners, and are forfeited by Captain Semmes as soon as they enter a British port.

Hoping to receive an answer to this and the preceding letter as early as possible, and that you will not construe my persistent course throughout this correspondence on neutral rights as importunate, or my remarks as inopportune,

I have, &c.,

WALTER GRAHAM,
United States Consul.

[Enclosure 23 in No. 2.]

*Mr. Rawson to Mr. Graham.*COLONIAL OFFICE, *August 12, 1863.*

SIR: I am directed by the governor to acknowledge the receipt of your letter of this date, and to acquaint you that it was not until late last evening that his excellency received from the naval commander-in-chief information that the condition of the *Tuscaloosa* was such, as his excellency is advised, to entitle her to be regarded as a vessel-of-war.

The governor is not aware, nor do you refer him to the provisions of international law by which captured vessels, as soon as they enter our neutral ports, revert to their real owners, and are forfeited by their captors. But his excellency believes that the claims of contending parties to vessels captured can only be determined in the first instance by the courts of the captor's country.

The governor desires me to add that he cannot offer any objection to the tenor of the correspondence which you have addressed to him on this subject, and that he is very sensible of the courtesy you have exhibited under such very peculiar circumstances. He gives you credit for acting on a strict sense of duty to your country.

I have, &c.,

RAWSON W. RAWSON,
Colonial Secretary.

[Enclosure 24 in No. 2.]

Mr. Graham to Sir P. Wodehouse.

UNITED STATES CONSULATE,
Cape Town, August 17, 1863.

SIR: I have delayed acknowledging the receipt of your last letter, dated the 12th August, on account of events transpiring, but which have not yet culminated so as to form the subject of correspondence.

Your decision that the *Tuscaloosa* is "a vessel of war," and by inference a prize, astonishes me, because I do not see the necessary incompatibility. Four guns were taken from on board the *Talisman* (also a prize) and put on board the *Conrad*, (*Tuscaloosa*,) but that transfer did not change the character of either vessel as a prize, for neither of them could cease to be a prize till it had been condemned in an admiralty court of the "captor's country," which it is not pretended has been done. The *Tuscaloosa*, therefore, being a prize, was forbidden to enter Simon's bay by the Queen's proclamation, and should have been ordered off at once, but she was not so ordered. Granting that her Majesty's proclamation affirmed the right of Captain Semmes as a "belligerent" to take and to hold prizes on the high seas, it just as emphatically denied his right to hold them in British ports. Now, if he could not hold them in Simon's bay, who else could hold them except those whose right to hold them was antecedent to his—that is, the owners?

The *Tuscaloosa* remained in Simon's bay seven days with her original cargo of skins and wool on board. This cargo, I am informed by those who claim to know, has been purchased by merchants in Cape Town; and if it should be landed here directly from the prize, or be transferred to other vessels at some secluded harbor on the coast beyond this colony, and brought from thence here, the infringement of neutrality will be so palpable and flagrant that her Majesty's

government will probably satisfy the claims of the owners gracefully and at once, and thus remove all cause of complaint. In so doing it will have to disavow and repudiate the acts of its executive agents here—a result I have done all in my power to prevent.

Greater cause of complaint will exist if the cargo of the *Sea Bride* is disposed of in the same manner, as I have reason to apprehend it will be when negotiations are concluded; for being originally captured in neutral waters, the thin guise of neutrality would be utterly torn into shreds by the sale of her cargo here.

The *Georgia*, a confederate war-steamer, arrived at Simon's bay yesterday, and the *Florida*, another vessel of the same class, has arrived or is expected hourly at Saldanha bay, where she may remain a week without your knowledge, as the place is very secluded. The *Alabama* remained here in Table bay nearly four days, and at Simon's bay six days; and as the *Tuscaloosa* was allowed to remain at Simon's bay seven days, I apprehend that the *Georgia* and *Florida* will meet with the same or even greater favors. Under such circumstances further protests from me would seem to be unavailing, and I only put the facts upon record for the benefit of my government and officials possessed of diplomatic functions.

I have, &c.,

WALTER GRAHAM,
United States Consul.

[Enclosure 25 in No. 2.]

Mr. Rawson to Mr. Graham.

COLONIAL OFFICE, August 19, 1863.

SIR: I am directed by the governor to acknowledge the receipt of your letter of the 17th instant, and to state that he has during the recent transactions endeavored to act in strict conformity with the wishes of her Majesty's government; he will in like manner pursue the same course in any future cases which may arise.

I am to add that his excellency has no reason to believe that either the *Alabama* or the *Tuscaloosa* have been allowed to remain in the ports of the colony for a greater length of time than the state of the weather and the execution of the repairs of which they actually stood in need rendered indispensable.

I have, &c.,

RAWSON W. RAWSON,
Colonial Secretary.

[Enclosure 26 in No. 2.]

Statement of Joseph Hopson.

Joseph Hopson, keeper of the Green Point light-house, states:

I was on the look-out on Wednesday afternoon when the *Alabama* and *Sea Bride* were coming in. When I first saw them the steamer was coming round the northwest of Robben island, and the bark bore from or about five miles west-northwest. The bark was coming in under all sail with a good breeze, and she took nothing in when the gun was fired. I believe two guns were fired, but the gun I mean was the last, and the steamer then crossed the stern side of the bark, and hauled up to her on the starboard side. He steamed ahead gently, and shortly afterwards I saw the bark put round with her head

to the westward, and a boat put off from the steamer and boarded her. Both vessels were then good five miles off the main land, and quite five if not six from the northwest point of Robben island.

J. HOPSON.

Taken before me at Green Point, this 7th day of August, 1863.

R. JOHNSON DUTTON

Acting Clerk of the Peace.

Witnesses :

J. SCHONEGEVEL.

JESSE HOPSON.

[Enclosure 27 in No. 2.]

Statement of W. S. Field.

I was present at the old light-house, Green Point, on last Wednesday afternoon, at 2 p. m., and saw the Alabama capture the American bark Sea Bride, and I agree with the above statement as far as the position of the vessels and their distance from shore.

W. S FIELD, *Collector of Customs.*

CAPE TOWN, August 8, 1863.

I may also remark that I called the attention of Colonel Bisset and the light-house keeper, Hopson, to the distance of the vessels at the time of the capture, as it was probable we should be called upon to give our evidence respecting the affair, and we took a note of the time it occurred.

W. S. FIELD, *Collector of Customs.*

CAPE TOWN, August 8, 1863.

[Enclosure 28 in No. 2.]

Statement of John Roe.

I, John Roe, boatman, of Cape Town, make the following statement :

I was yesterday, the 5th day of August, 1863, returning from a whale chase in Hunt's bay, when I first saw the bark Sea Bride standing from the westward on to the land. I came on to Table bay, and when off Camp's bay I saw the smoke of the Alabama some distance from the westward of Robben island. When I reached the Green Point light-house the steamer was standing up towards the bark, which was about five miles and a half to the westward of Green Point, and about four and a half from the western point of Robben island. This was their position (being near each other at the time) when the gun was fired.

Dated at Cape Town, this 6th day of August, 1863.

JOHN ROE.

This statement made before me,

R. JOHNSON DUTTON,

Acting Clerk of the Peace.

CAPE TOWN, August 6, 1863.

Witnesses :

J. W. A. RUSSOND.

J. A. B. FLECK.

[Enclosure 29 in No. 2.]

Statement of Frederick Carter.

Frederick Carter, signalman at the Lion's Rump telegraph station, states :
On Wednesday last, the 5th day of August, 1863, I sighted the bark Sea Bride about seven o'clock in the morning, about fifteen or twenty miles off the land, standing into Table bay from the southwest. There was a light breeze blowing from the northwest, which continued until after midday. About midday I sighted the Alabama screw steamer standing from due north towards Table bay, intending, as it appeared to me, to take the passage between Robben island and the Blueberg beach. She was then between fifteen and eighteen miles off the land.

After sighting the steamer I hoisted the demand for the bark, when she hoisted the American flag, which I reported to the post office, the bark then being about eight miles off the land from Irville Point. No sooner had the bark hoisted the American flag than the steamer turned sharp round in the direction of and towards the bark. The steamer appeared at that time to have been about twelve miles off the land from Irville Point, and about four or five miles outside of Robben island, and about seven miles from the bark.

The steamer then came up to and alongside of the bark, when the latter was good four miles off the land, at or near the old light-house, and five miles off the island. The steamer, after firing a gun, stopped the further progress of the bark. Several boats were sent to her, and after that the bark stood out to sea again, and the Alabama steamed into Table bay.

F. CARTER,

Chief Signalman, Lion's Rump.

Taken before me, at Cape Town, this 7th day of August, 1863.

R. JOHNSON DUTTON,

Acting Clerk of the Peace.

Witnesses :

J. W. A. RUSSOND.

J. A. B. FLECK.

[Enclosure 30 in No. 2.]

Captain Forsyth to Sir P. Wodehouse.

"VALORUS," TABLE BAY, August 6, 1863.

SIR: In compliance with the request conveyed to me by your excellency, I have the honor to report that I have obtained from Captain Semmes a statement of the positions of the Confederate States steamer Alabama and the American bark Sea Bride, when the latter was captured yesterday afternoon.

Captain Semmes asserts that at the time of his capturing the Sea Bride, Green Point light-house bore from the Alabama south-east about six or six and a half miles.

This statement is borne out by the evidence of Captain Wilson, port captain of Table Bay, who has assured me that at the time of the Sea Bride being captured he was off Green Point in the port boat, and that only the top of the Alabama's hull was visible.

I am of opinion, if Captain Wilson could only see that portion of the hull of the Alabama, she must have been about the distance from the shore which is

stated by Captain Semmes, and I have therefore come to the conclusion that the bark, *Sea Bride* was beyond the limits assigned when she was captured by the *Alabama*.

I have, &c.,

CHARLES C. FORSYTH.

For enclosure 31 in No. 2, Rear-Admiral Sir B. Walker to Sir P. Wodehouse, August, 7, 1863, see enclosure 4 in No. 1.

[Enclosure 32 in No. 2.]

The Secretary to the Admiralty to Rear-Admiral Sir B. Walker.

ADMIRALTY, June 1, 1861.

SIR: I am commanded by my lords commissioners of the admiralty to send you herewith, for your information and guidance, a copy of a letter from her Majesty's principal secretary of state for foreign affairs dated this day, informing my lords that, with a view more effectually to carry out the principle of neutrality, her Majesty's government proposes to interdict the armed ships of both contending parties in North America from carrying prizes made by them into the ports, harbors, roadsteads, or waters of the United Kingdom, or of any other of her Majesty's colonies or possessions abroad.

I am, &c.,

W. G. ROMAINE.

[Enclosure 33 in No. 2.]

Lord J. Russell to the Lords Commissioners of the Admiralty.

FOREIGN OFFICE, June 1, 1861.

SIR: Her Majesty's government are, as your lordships are aware, desirous of observing the strictest neutrality in the contest which appears to be imminent between the United States and the so-called Confederate States of North America; and with a view more effectually to carry out this principle, they propose to interdict the armed ships, and also the privateers, of both parties, from carrying prizes made by them into the ports, harbors, roadsteads, or waters of the United Kingdom, or of any of her Majesty's colonies or possessions abroad.

I have accordingly to acquaint your lordship that the Queen has been pleased to direct that orders in conformity with the principles above mentioned should forthwith be addressed to all proper authorities in the United Kingdom, and to her Majesty's naval and other authorities in all quarters beyond the United Kingdom, for their guidance in the circumstances.

I have, &c.,

J. RUSSELL.

For enclosure 34 in No. 2, Sir P. Wodehouse to Rear-Admiral Sir B. Walker, August 8, 1863, see enclosure 6 in No. 1.

For enclosure 35 in No. 2, extract from Wheaton's "Elements of International Law," see enclosure 7 in No. 1.

For enclosure 36 in No. 2, Rear-Admiral Sir B. Walker to Sir P. Wodehouse, August 8, 1863, see enclosure 8 in No. 1.

For enclosure 37 in No. 2, Sir P. Wodehouse to Rear-Admiral Sir B. Walker, August 10, 1863, see enclosure 9 in No. 1.

For enclosure 38 in No. 2, Rear-Admiral Sir B. Walker to Sir P. Wodehouse, August 11, 1863, see enclosure 10 in No. 1.

[Enclosure 39 in No. 2]

Mr. Holmes to Mr. Rawson.

CAPE TOWN, *August 6, 1863.*

SIR: With reference to the seizure, by the so-called confederate steamship Alabama, of the United States merchant bark Sea Bride, bound from New York to this port, on Thursday, the 5th instant, whilst entering Table bay, I beg to state that, from information which I have received, and from my own observation, I believe that the said bark was seized within the neutral limits allowed by the law of nations. I beg, therefore, to protest on behalf of the principal underwriters in the said United States, whose agent I am in this colony, against the said seizure as being illegal, and to claim the protection of the British government for the said bark and underwriters.

I have, &c.,

G. S. HOLMES,
Agent for said Underwriters.

[Enclosure 40 in No. 2.]

Mr. Rawson to Mr. Holmes.

COLONIAL OFFICE, *August 7, 1863.*

SIR: I am directed by the governor to acknowledge the receipt of your letter of yesterday's date relative to the capture of the Sea Bride, and to acquaint you that an inquiry is in progress as to the circumstances under which it took place.

I have, &c.,

RAWSON W. RAWSON,
Colonial Secretary.

No. 3.

The Secretary to the Admiralty to Mr. Hammond.—(Received October 21.)

ADMIRALTY, *October 21, 1863.*

SIR: With reference to my letter of the 26th ultimo I am commanded by my lords commissioners of the admiralty to send you herewith, for the information of Earl Russell, a copy of a letter from Rear-Admiral Sir Baldwin Walker, dated the 31st August, with copy of its enclosure, relative to two vessels captured by the so-styled confederate vessel Alabama, having visited Saldanha bay, and the question whether the laws of neutrality prescribed by the Queen's proclamation have not been infringed by the proceedings of these vessels.

I am, &c.,

[Enclosure 1 in No. 3.]

Rear-Admiral Sir B. Walker to the Secretary to the Admiralty.

"NARCISSUS," SIMON'S BAY, August 31, 1863.

SIR: I beg to enclose, for the information of my lords commissioners of the admiralty, the copy of a letter addressed to me by Captain Forsyth, of her Majesty's ship *Valorous*, reporting the result of his visit to Saldanha bay to watch the movements of the Confederate States vessels and prizes said to have gone in that direction.

2. The report of the inhabitants of Hontges bay, northward of Saldanha bay, that the prize *Sea Bride* and the so-called tender *Tuscaloosa* having visited that place, and received on board some men sent from Cape Town, tends to confirm the suspicions referred to in my letter of the 19th instant, paragraph 7; and I believe that these vessels and their cargoes have been since disposed of to some parties at Cape Town. The fact of the *Sea Bride*, which was the vessel captured off Table bay by the *Alabama*, being carried into Hontges bay, although she may have been previously made into a tender in the same manner as the *Tuscaloosa*, having her cargo of merchandise still on board, would appear to be a breach of the laws of neutrality prescribed by the Queen's proclamation.

I have, &c.,

B. W. WALKER.

[Enclosure 2 in No. 3.]

Captain Forsyth to Rear-Admiral Sir B. Walker.

"VALOROUS," TABLE BAY, August 24, 1863.

SIR: Having received a request in the evening of the 19th instant, from his excellency Sir P. Wodehouse, (a copy of which I beg to enclose,) that I would proceed to Saldanha bay and there take such steps as I might think proper for enforcing the instructions of her Majesty's government with regard to British neutrality, I weighed at 9 p. m. under steam, and arrived at my destination the next morning. I first examined the southern part of the bay for any vessels that might have anchored in that locality; not finding any, I proceeded the same afternoon to Hontges bay, further to the northward, and found, from information obtained from the residents, that two confederate vessels, the *Sea Bride* and *Tuscaloosa*, had sailed on the previous morning, having been at anchor two days at this place, and, it is reported, shipped some men, one from this bay, and others said to have been brought from Cape Town in a cargo boat. On their leaving the port they were communicated with by a steamer, after which the former stood to the westward and the latter to the southward.

The wind having set in from the northward, and there being a very heavy sea outside, I decided on remaining at the anchorage until the weather cleared, more particularly as our starboard fore-bits have been strained and the stopper-bolts drawn, which I felt anxious to repair before returning to Table bay.

Having partially completed the above-mentioned repairs, I left Saldanha bay at 8 a. m. this morning, and arrived here at 5.30 p. m. this day.

I have, &c.,

C. C. FORSYTH.

No. 4.

The Secretary to the Admiralty to Mr. Hammond — (Received October 21.)

ADMIRALTY, October 21, 1863.

SIR: I am commanded by my lords commissioners of the admiralty to send

you herewith, for the information of Earl Russell, a copy of a letter dated the 17th September, from Rear-Admiral Sir Baldwin Walker, with copy of its enclosure, relative to the movements of the so-styled Confederate States ship Alabama and her prizes.

I am, &c.,

C. PAGET.

[Enclosure 1 in No. 4.]

Rear-Admiral Sir B. Walker to the Secretary to the Admiralty.

"NARCISSUS," SIMON'S BAY, *September 17, 1863.*

SIR: With reference to my letters, dated respectively the 19th and 31st ultimo, relative to the Confederate States ship of war Alabama, and the prizes captured by her, I beg to enclose, for their lordships' information, the copy of a statement forwarded to me by the collector of customs at Cape Town, wherein it is represented that the Tuscaloosa and Sea Bride had visited Ichaboe, which is a dependency of this colony.

2. Since the receipt of the above-mentioned document, the Alabama arrived at this anchorage, (the 16th instant,) and when Captain Semmes waited upon me I acquainted him of the report, requesting he would inform me if it was true. I was glad to learn from him that it was not so. He frankly explained that the prize Sea Bride in the first place had put into Saldanha bay through stress of weather, and on being joined there by the Tuscaloosa, both vessels proceeded to Angra Pequena, on the west coast of Africa, where he subsequently joined them in the Alabama, and there sold the Sea Bride and her cargo to an English subject who resides at Cape Town. The Tuscaloosa had landed some wool at Angra Pequena and received ballast, but he states is still in commission as a tender. It will therefore be seen how erroneous is the accompanying report. I have no reason to doubt Captain Semmes's explanation; he seems to be fully alive to the instructions of her Majesty's government, and appears to be most anxious not to commit any breach of neutrality.

3. The Alabama has returned to this port for coal, some provisions, and to repair her condensing apparatus.

4. From conversation with Captain Semmes, I find that he has been off this Cape for the last five days, and as the Vanderbilt left this on the night of the 11th instant, it is surprising they did not see each other.

I have, &c.,

B. W. WALKER.

[Enclosure 2 in No. 4.]

Information received September 11, 1863.

On the 3d August the Sea Bride, now hailing from Hamburg, together with the Tuscaloosa, sailed from Ichaboe. The Sea Bride having landed part of her cargo, and filled up with guano, both vessels were remanned from the working party on the islands, and the former crews landed.

Captain Icton, of the Flower of Yarrow, piloted the Alabama into the Lagoon, or, as it is called, Galvidea bay, thirty to forty miles north of Ichaboe, where she landed some cargo.

The Isabella schooner, of Cape Town, took on board part of the Sea Bride's cargo, consisting of tobacco, flour, beef, and pork.

The Tuscaloosa landed her cargo at Angra Pequena, and was ballasted and refitted there.

The Sea Bride and Tuscaloosa are supposed to have sailed for Mauritius. The above information was yesterday confirmed by the arrival of the Gem from Angra Pequena.

CUSTOM-HOUSE, CAPE TOWN, *September 15, 1863.*

Captain Johnson, formerly of the Albatross, commands the Sea Bride, and Mr. Cloete the Tuscaloosa.

No. 5.

The Secretary to the Admiralty to Mr. Hammond.—(Received October 22.)

ADMIRALTY, *October 21, 1863.*

SIR: I am commanded by my lords commissioners of the admiralty to acquaint you, for the information of Earl Russell, that Rear-Admiral Sir Baldwin Walker, in a letter dated the 2d ultimo, reports that the Confederate States steam-vessel Georgia went to sea from Simon's bay on the evening of the 29th August; and that the following afternoon the federal steamship of war Vanderbilt communicated with a pilot off Cape Hanglip, and then proceeded in search of the confederate ships which have lately visited the Cape of Good Hope. The commander of the Vanderbilt is said to have told the pilot to look out for him off Simon's bay in the course of a week.

I am, &c.,

C. PAGET.

No. 6.

The Secretary to the Admiralty to Mr. Hammond.—(Received November 24.)

ADMIRALTY, *November 24, 1863.*

SIR: I am commanded by my lords commissioners of the admiralty to acquaint you, for the information of Earl Russell, that Rear-Admiral Sir Baldwin Walker has reported that the Alabama left the Cape of Good Hope on the 25th September, and had not since been heard of by him. The Vanderbilt was reported as having reached the Mauritius.

I am, &c.,

W. G. ROMAINE.

No. 7.

Mr. Elliot to Mr. Hammond.—(Received December 10.)

[Extract.]

DOWNING STREET, *December 9, 1863.*

I am directed by the Duke of Newcastle to transmit to you, for the information of Earl Russell, a copy of a despatch which his grace has addressed to the governor of the Cape.

[Enclosure in No. 7.]

The Duke of Newcastle to Sir P. Wodehouse.

DOWNING STREET, November 4, 1863.

SIR: I have received your despatch of the 19th August last, submitting for my consideration various questions arising out of the proceedings at the Cape of Good Hope of the confederate vessels Georgia, Alabama, and her reputed tender, the Tuscaloosa.

I will now proceed to convey to you the views of her Majesty's government on these questions.

The capture of the Sea Bride by the Alabama is stated to have been effected beyond the distance of three miles from the shore, which distance must be accepted as the limit of territorial jurisdiction according to the present rule of international law upon that subject. It appears, however, that the prize, very soon after her capture, was brought within the distance of two miles from the shore; and as this is contrary to her Majesty's orders, it might have afforded just grounds (if the apology of Captain Semmes for this improper act, which he ascribed to inadvertence, had not been accepted by you) for the interference of the colonial authorities upon the principles which I am about to explain.

With respect to the Alabama herself, it is clear that neither you nor any other authority at the Cape could exercise any jurisdiction over her; and that, whatever may have been her previous history, you were bound to treat her as a ship of war belonging to a belligerent power.

With regard to the vessel called the Tuscaloosa, I am advised that this vessel did not lose the character of a prize captured by the Alabama, merely because she was, at the time of her being brought within British waters, armed with two small rifled guns, in charge of an officer and manned with a crew of ten men from the Alabama, and used as a tender to that vessel under the authority of Captain Semmes.

It would appear that the Tuscaloosa is a bark of 500 tons, captured by the Alabama off the coast of Brazil, on the 21st of June last, and brought into Simon's bay on or before the 7th of August, with her original cargo of wool (itself, as well as the vessel, prize) still on board, and with nothing to give her a warlike character (so far as is stated in the papers before me) except the circumstances already noticed.

Whether, in the case of a vessel duly commissioned as a ship of war, after being made prize by a belligerent government, without being first brought *infra prasidia* or condemned by a court of prize, the character of prize, within the meaning of her Majesty's orders, would or would not be merged in that of a national ship of war, I am not called upon to explain. It is enough to say that the citation from Mr. Wheaton's book by your attorney general does not appear to me to have any direct bearing upon the question.

Connected with this subject is the question as to the cargoes of captured vessels which is alluded to at the end of your despatch. On this point I have to instruct you that her Majesty's orders apply as much to prize cargoes of every kind which may be brought by any armed ships or privateers of either belligerent into British waters as to the captured vessels themselves. They do not, however, apply to any articles which may have formed part of any such cargoes, if brought within British jurisdiction, not by armed ships or privateers of either belligerent, but by other persons who may have acquired or may claim property in them by reason of any dealings with the captors.

I think it right to observe that the third reason alleged by the attorney general for his opinion assumes (though the fact had not been made the subject of any inquiry) that "no means existed for determining whether the ship had or

had not been judicially condemned in a court of competent jurisdiction," and the proposition that, "*admitting her to have been captured by a ship of war of the Confederate States, she was entitled to refer her Majesty's government, in case of any dispute, to the court of her states in order to satisfy it as to her real character*." This assumption, however, is not consistent with her Majesty's undoubted right to determine within her own territory whether her own orders, made in vindication of her own neutrality, have been violated or not.

The question remains what course ought to have been taken by the authorities of the Cape—

First. In order to ascertain whether this vessel was, as alleged by the United States consul, an uncondemned prize brought within British waters in violation of her Majesty's neutrality; and,

Secondly. What ought to have been done if such had appeared to be really the fact.

I think that the allegations of the United States consul ought to have been brought to the knowledge of Captain Semmes while the Tuscaloosa was still within British waters, and that he should have been requested to state whether he did or did not admit the facts to be as alleged. He should also have been called upon (unless the facts were admitted) to produce the Tuscaloosa's papers. If the result of these inquiries had been to prove that the vessel was really an uncondemned prize, brought into British waters in violation of her Majesty's orders made for the purpose of maintaining her neutrality, I consider that the mode of proceeding in such circumstances, most consistent with her Majesty's dignity, and most proper for the vindication of her territorial rights, would have been to prohibit the exercise of any further control over the Tuscaloosa by the captors, and to retain that vessel under her Majesty's control and jurisdiction until properly reclaimed by her original owners.

I have, &c.,

NEWCASTLE.

No. 8.

Mr. Elliot to Mr. Hammond.—(Received January 30.)

[Extract.]

DOWNING STREET, January 29, 1864.

With reference to the proceedings, at the Cape of Good Hope, of the confederate war-steamer Alabama and her prizes, I am directed by the Duke of Newcastle to transmit to you, for the consideration of Earl Russell, a copy of a further despatch from the governor of that colony on the subject, and I am to request that you will state to his lordship that his grace proposes to inform Sir P. Wodehouse, that in the despatch addressed to him from this office, of which a copy is enclosed, it was not intended to censure his conduct in any respect, or to express a doubt as to its propriety in regard to the Sea Bride.

[Enclosure 1 in No. 8.]

Sir P. Wodehouse to the Duke of Newcastle.

GOVERNMENT HOUSE, CAPE TOWN, December 19, 1863.

MY LORD DUKE: I have had the honor to receive your grace's despatch of the 4th ultimo, from which I regret to learn that the course taken here relative to the confederate war-steamer Alabama and her prizes has not in some respects given satisfaction to her Majesty's government.

I must only beg your grace to believe that no pains were spared by the late acting attorney general or by myself to shape our course in what we believed to be conformity with the orders of her Majesty's government and the rules of international law, as far as we could ascertain and interpret them.

Mr. Denyssen has been so constantly engaged with professional business since the arrival of the mail, that I have been prevented from discussing with him the contents of your despatch; but I think it right, nevertheless, to take advantage of the first opportunity for representing to your grace the state of uncertainty in which I am placed by the receipt of this communication, and for soliciting such further explanations as may prevent my again falling into error on these matters. In so doing I trust you will be prepared to make allowance for the difficulties which must arise out of this peculiar contest, in respect of which both parties stand on a footing of equality as belligerents, while only one of them is recognized as a nation.

In the first place, I infer that I have given cause for dissatisfaction in not having more actively resented the fact that the Sea Bride, on the day after her capture, was brought a short distance within British waters.

Your grace demurs to my having accepted Captain Semmes's apology for this improper act, which he ascribed to inadvertence. You will pardon my noticing that the fact of the act having been done through inadvertence was established by the United States consul himself, one of whose witnesses stated, "The officer in command of the bark came on deck about that time, and stamping his foot as if chagrined to find her so near the land, ordered her further off, which was done immediately."

I confess that on such evidence of such a fact I did not consider myself warranted in requiring the commander of her Majesty's ship *Valorous* to take possession of the *Alabama's* prize.

The questions involved in the treatment of the *Tuscaloosa* are far more important and more embarrassing; and first let me state, with reference to the suggestion that Captain Semmes should have been required to admit or deny the allegations of the United States consul, that no such proceeding was required. There was not the slightest mystery or concealment of the circumstances under which the *Tuscaloosa* had come into and then was in possession of the confederates. The facts were not disputed. We were required to declare what was her actual status under those facts. We had recourse to Wheaton, the best authority on international law within our reach—an authority of the nation with whom the question had arisen; an authority which the British secretary for foreign affairs had recently been quoting in debates on American questions in the House of Lords.

Your grace intimates that the citation from this authority by the acting attorney general does not appear to have any direct bearing upon the question.

You will assuredly believe that it is not from any want of respect for your opinion, but solely from a desire to avoid future error, that I confess my inability to understand this intimation, or, in the absence of instructions on that head, to see in what direction I am to look for the law bearing on the subject.

The paragraph cited made no distinction between a vessel with cargo and a vessel without cargo; and your grace leaves me in ignorance whether her character would have been changed if Captain Semmes had got rid of the cargo before claiming for her admission as a ship of war. Certainly, acts had been done by him which, according to Wheaton, constituted a "setting forth as a vessel of war."

Your grace likewise states, "Whether in the case of a vessel duly commissioned as a ship of war, after being made prize by a belligerent government without being first brought *infra præsidia*, or condemned by a court of prize, the character of prize, within the meaning of her Majesty's orders, would or would not be merged in a national ship of war, I am not called upon to explain."

I feel myself forced to ask for further advice on this point, on which it is quite possible I may be called upon to take an active part. I have already, in error, apparently, admitted a confederate prize as a ship of war. The chief authority on international law in which it is in my power to refer is Wheaton, who apparently draws no distinction between ships of war and other ships when found in the position of prizes, and I wish your grace to be aware that within the last few days the commander of a United States ship of war observed to me that if it were his good fortune to capture the *Alabama* he should convert her into a federal cruiser.

I trust your grace will see how desirable it is that I should be fully informed of the views of her Majesty's government on these points, and that I shall be favored with a reply to this despatch at your earliest convenience.

I have, &c.,

P. E. WODEHOUSE.

[For enclosure 2 in No. 8, the Duke of Newcastle to Sir P. Wodehouse, November 4, 1863, see enclosure in No. 7.]

No. 9.

The Secretary to the Admiralty to Mr. Hammond.—(Received February 15.)

[Extract.]

ADMIRALTY, *February 15, 1864.*

I am commanded by my lords commissioners of the admiralty to send you herewith, for the information of Earl Russell, a copy of a letter, dated the 5th January, from Rear-Admiral Sir Baldwin Walker, with copies of its enclosure, reporting that the bark *Tuscaloosa*, under the confederate flag, has been detained by the British authorities at Simon's bay, Cape of Good Hope, until she can be transferred to her lawful owners, for violation of her Majesty's orders for the maintenance of neutrality, the vessel being considered as an uncondemned prize, captured by the confederate vessel of war *Alabama*.

[Enclosure 1 in No. 9.]

Rear-Admiral Sir B. Walker to the Secretary to the Admiralty.

"*NARCISSUS*," SIMON'S BAY, *January 5, 1864.*

SIR: I request you will be pleased to acquaint my lords commissioners of the admiralty that the bark called the *Tuscaloosa*, under the flag of the Confederate States of North America, (referred to in my letter of the 19th August last,) termed a tender to the *Alabama*, returned to this anchorage on the 26th ultimo from cruising off the coast of Brazil.

2. In order to ascertain the real character of this vessel, I directed the board-officer from my flag-ship to put the questions as per enclosure No. 1 to the officer in command, Lieutenant Low, of the *Alabama*, and having satisfied myself from his answers that the vessel was still an uncondemned prize captured by the *Alabama*, under the name of the *Conrad*, of Philadelphia, I communicated the circumstances to the governor of this colony, who, concurring in opinion with me that she ought to be retained under her Majesty's control and jurisdiction until reclaimed by her proper owners, for violation of her Majesty's orders for

the maintenance of her neutrality, I caused the so-called Tuscaloosa to be taken possession of, informing Lieutenant Low at the same time of the reason for doing so.

3. Lieutenant Low has entered a written protest against the seizure of the vessel, the copy of which, together with the reply of the governor, I enclose for their lordships' information, as well as a copy of all the correspondence which has passed on this subject.

4. Lieutenant Low having informed me that he expects the Alabama shortly to arrive at this place, I have allowed him and his crew to remain on board the Conrad for the present; but should the Alabama not make her appearance, I have acquainted him that I will grant him and his officers (probably only one besides himself) a passage to England in one of the packets. The crew he wishes to discharge if there is no opportunity of their rejoining the Alabama.

5. The vessel in question is at present moored in this bay, in charge of an officer and a few men belonging to her Majesty's ship Narcissus, where she will remain until she can be properly transferred to her lawful owners, as requested by the governor.

I have, &c.,

B. W. WALKER.

[Enclosure 2 in No. 9.]

Questions to be put to the officer in command or charge of the bark Tuscaloosa, carrying the flag of the so-called Confederate States of America.

Ship's name and nation?—Tuscaloosa. Confederate.

Name and rank of officer in command?—Lieutenant Low, late Alabama.

Tonnage of the ship?—500.

Number of officers and men on board?—4 officers and 20 men.

Number and description of guns on board?—3 small brass guns, 2 rifled 12-pounders, and 1 smooth-bore -pounder.

Where is she from?—St. Catherine's, Brazil.

Where is she bound?—Cruising.

For what purpose has the ship put into this port?—For repairs and supplies.

Is it the same ship that was captured by the Alabama, and afterwards came to this port on the 9th of August last?—Yes.

What was her original name on being captured by the Alabama?—Conrad, of Philadelphia.

When was she captured by the Alabama?—June 21, 1863.

To what nation and to whom did she belong before her capture?—Federal States of America.

Has she been taken before any legally constituted admiralty court of the Confederate States?—No.

Has she been duly condemned as a lawful prize by such court to the captors?—No.

What is she now designated?—Tender to the Alabama.

What papers are there on board to constitute her as the confederate bark Tuscaloosa?—The commission of the lieutenant commanding the Tuscaloosa from Captain Semmes. The officers also have commissions to their ship from him.

Are the papers which belonged to her before she was seized by the Alabama on board?—No.

Is there any cargo on board, and what does it consist of?—No cargo; only stores for ballast.

JOHN LOW,

Lieutenant Commander, Confederate States bark Tuscaloosa.

FRANCIS L. WOOD,

Lieutenant and Boarding Officer, her Majesty's ship Narcissus.

[Enclosure 3 in No. 9.]

Rear-Admiral Sir B. Walker to Sir P. Wodehouse.

"NARCISSUS," SIMON'S BAY, *December 26, 1863.*

SIR: In consequence of the arrival of the Tuscaloosa, (the vessel captured by the Confederate States ship of war Alabama, on the 21st June last,) having again returned to this anchorage this evening, I called upon the officer in command to answer the enclosed questions, which, together with the replies, I forward for your excellency's information.

As it appears that this vessel, the Tuscaloosa, late federal ship Conrad, is an uncondemned prize, brought into British waters in violation of her Majesty's orders made for the purpose of maintaining her neutrality, I therefore consider that she ought to be detained with the view of her being reclaimed by her original owners, in accordance with the opinion of the law officers of the crown forwarded for my guidance, the copy of which I have already transmitted to you.

I have, &c.,

B. W. WALKER.

[Enclosure 4 in No. 9.]

Sir P. Wodehouse to Rear-Admiral Sir B. Walker.

CLAREMONT, *December 27, 1863.*

SIR: I have the honor to acknowledge the receipt of your excellency's letter of yesterday's date, and to state that, after careful consideration of the instructions received by the last mail from her Majesty's government, and of the view taken by them of our former proceedings with respect to the Tuscaloosa, I concur in your opinion that it will be proper to retain that vessel under her Majesty's control and jurisdiction until properly reclaimed by her original owners.

I have, &c.,

P. E. WODEHOUSE.

[Enclosure 5 in No. 9.]

Rear-Admiral Sir B. Walker to Lieutenant Low, C. S. N.

"NARCISSUS," SIMON'S BAY, *December 27, 1863.*

SIR: As it appears that the Tuscaloosa, under your charge and command, is a vessel belonging to the Federal States of America, having been captured by the Confederate States ship of war Alabama, and not having been adjudicated before any competent prize court, is still an uncondemned prize, which you have brought into this port in violation of her Britannic Majesty's orders for the maintenance of her neutrality, I have the honor to inform you that, in consequence, I am compelled to detain the so-called Tuscaloosa, (late Conrad,) with the view of her being restored to her original owners, and I request you will be so good as to transfer the charge of the vessel to the officer bearing this letter to you.

I am, &c.,

B. W. WALKER.

[Enclosure 6 in No. 9.]

Rear-Admiral Sir B. Walker to Sir P. Wodehouse.

"NARCISSUS," SIMON'S BAY, *December 28, 1863.*

SIR: I have the honor to inform your excellency that, acting upon your concurrence in my opinion with reference to the instructions received from home

by the last mail. I have detained the bark *Tuscaloosa*, (late *Conrad*, of Philadelphia,) because she is an uncondemned prize, taken by the Confederate States ship of war *Alabama*, and brought into British waters in violation of her Majesty's orders for maintaining her neutrality, and with the view to her being restored to her original owners.

I shall be ready to hand her over to the consul of the United States at Cape Town, or to any person you may appoint to take charge of her.

I should add that Lieutenant Low has given up the *Tuscaloosa* (late *Conrad*) under protest, which he is about to make in writing, a copy of which shall be transmitted to your excellency as soon as received.

I have, &c.,

B. W. WALKER.

[Enclosure 7 in No. 9.]

Lieutenant Low, C. S. N., to Rear-Admiral Sir B. Walker.

"TUSCALOOSA," SIMON'S BAY,
Cape of Good Hope, December 28, 1863.

SIR: I have the honor to enclose for your information copy of a letter which I have forwarded this day to his excellency the governor of the colony on the subject of the seizure in this port of the confederate ship *Tuscaloosa*.

I am, &c.,

JOHN LOW.

[Enclosure 8 in No. 9.]

Lieutenant Low, C. S. N., to Sir P. Wodehouse.

"TUSCALOOSA," SIMON'S BAY,
Cape of Good Hope, December 28, 1863.

SIR: As the officer in command of the Confederate States ship *Tuscaloosa*, tender to the Confederate States steamer *Alabama*, I have to record my protest against the recent extraordinary measures which have been adopted towards me and the vessel under my command by the British authorities of this colony.

In August last the *Tuscaloosa* arrived in Simon's bay. She was not only recognized in the character which she lawfully claimed and still claims to be, viz., a commissioned ship of war belonging to a belligerent power, but was allowed to remain in the harbor for the period of seven days, taking in supplies and effecting repairs with the full knowledge and sanction of the authorities.

No intimation was given that she was regarded merely in the light of an ordinary prize, or that she was considered to be violating the laws of neutrality. Nor, when she notoriously left for a cruise on active service, was any intimation whatever conveyed that on her return to the port of a friendly power, where she had been received as a man-of-war, she would be regarded as a "prize," as a violator of the Queen's proclamation of neutrality, and consequently liable to seizure. Misled by the conduct of her Majesty's government, I returned to Simon's bay on the 26th instant, in very urgent want of repairs and supplies; to my surprise I find the *Tuscaloosa* is now no longer considered as a man-of-war, and she has by your orders, as I learn, been seized for the purpose of being handed over to the person who claims her on behalf of her late owners.

The character of the vessel, viz., that of a lawful commissioned man-of-war of the Confederate States of America, has not been altered since her first arrival in Simon's bay, and she, having been once fully recognized by the British authorities in command in this colony, and no notice or warning of change of opin-

ion or of friendly feeling having been communicated by public notification or otherwise, I was entitled to expect to be again permitted to enter Simon's bay without molestation.

In perfect good faith I returned to Simon's bay for mere necessities, and in all honor and good faith, in return, I should, on change of opinion or of policy on the part of the British authorities, have been desired to leave the port again. But by the course of proceedings taken, I have been (supposing the view now taken by your excellency's government to be correct) first misled, and next entrapped.

My position and character of my ship will most certainly be vindicated by my government. I am powerless to resist the affront offered to the Confederate States of America by your excellency's conduct and proceedings.

I demand, however, the release of my ship; and if this demand be not promptly complied with, I hereby formally protest against her seizure, especially under the very peculiar circumstances of the case.

I have, &c.,

JOHN LOW.

[Enclosure 9 in No. 9.]

Sir P. Wodehouse to Rear-Admiral Sir B. Walker.

GOVERNMENT HOUSE, *December 30, 1863.*

SIR: I have the honor, to acknowledge the receipt of your excellency's letter of yesterday's date and its enclosures, and beg to forward a copy of the reply given to the protest of the commander of the Tuscaloosa.

I have, &c.,

P. E. WODEHOUSE.

[Enclosure 10 in No. 9.]

Mr. Rawson to Lieutenant Low, C. S. N.

COLONIAL OFFICE, *December 29, 1863.*

SIR: I am directed by the governor to acknowledge the receipt of your letter of yesterday's date protesting against the seizure of the Tuscaloosa, whose character you represent to be the same as when, in August last, she was admitted into the port of Simon's bay, and I am to acquaint you, in reply, that a full report was submitted to her Majesty's government of all that took place on the first visit of the Tuscaloosa, and that the seizure has now been made in conformity with the opinion expressed by them on that report.

Your protest will of course be transmitted for their consideration.

I have, &c.,

RAWSON W. RAWSON.

[Enclosure 11 in No. 9.]

Rear-Admiral Sir B. Walker to Sir P. Wodehouse.

"NARCISSUS," SIMON'S BAY, *December 29, 1863.*

SIR: Lieutenant Low, the officer belonging to the Confederate States ship of war Alabama, late in charge of the bark called the Tuscaloosa, (properly the

Conrad, of Philadelphia,) having sent me a copy of the protest which he has forwarded to your excellency against the detention of that vessel, I think it right to enclose for your information the copy of my letter to Lieutenant Low, explaining the circumstances under which the so-called Tuscaloosa is detained.

I have, &c.,

B. W. WALKER.

N. B.—I beg to enclose a list of the officers and men on board the Conrad late Tuscaloosa, as well as an inventory of stores, &c., on board, distinguishing those which are said to belong to the Alabama.

[Enclosure 12 in No. 9.]

List of confederate officers and crew on board the bark Conrad, late Tuscaloosa.

Name.	Rank or rating.	Whence.
J. Low	Lieutenant commanding.	
W. H. Sinclair	Master.	
J. T. Merior	Master's mate.	
A. Marmilstein	Ditto.	
Martin Molk	Boatswain's mate.	Alabama, June 22, 1863.
R. Owens	Ditto	Do. do.
H. Legris	Quartermaster	Do. do.
E. Jones	Ditto	Do. do.
T. Williams	Ship's cook	Do. do.
R. Williams	A. B.	Do. do.
W. Jones	Ditto	Do. do.
W. Gibbs	Ditto	At sea, August 17, 1863.
E. Morrell	Ditto	Do. do.
A. Anderson	Ordinary	Do. do.
H. Anderson	Ditto	Do. do.
S. Roberts	Ditto	Do. do.
T. Allman	Steward	Talisman, June 21, 1863.
W. Renton	A. B.	Alabama, June 21, 1863.
S. Brewer	Ditto	Do. do.
J. Duggan	Ditto	Do. do.
J. Ross	Ordinary	At sea, August 17, 1863.
C. Carew	Ditto	Do. do.
S. Robertson	Carpenter's mate	Do. do.
Ben Backstay	Ordinary	Do. do.

List of stores and fittings belonging to the bark Conrad.

1 chronometer; 1 barometer; 2 sextants; 1 telescope; 2 timepieces; 1 Brazil ian ensign; 1 American ensign; 1 long-boat; 2 cutters; 1 bower anchor, 26 cwt.; 1 kedge ditto, 6 cwt.; 1 ditto ditto, 3 cwt.; 2 chain cables, 85 fathoms; 1 box of charts; standing and running rigging complete, but in very bad condition No spare stores of any description on board.

JOHN LOW,

Lieut., Com'dg Confederate States bark Tuscaloosa.

W. R. KENNEDY,

Lieut., her Majesty's ship Narcissus.

List of stores belonging to the confederate sloop-of-war Alabama, on board the Conrad.

1 chronometer; 3 sextants; 1 telescope; 1 code of signals and signal-book; 1 Dutch ensign; 1 confederate ensign; 22 rifles and bayonets; 2 12-pounder rifled brass guns; 1 12-pounder smooth-bore brass gun; 2 barrels gunpowder (100 lbs. each); 100 cartridges (1 lb. each); 6 12-pounder rifle shot; 6 12-pounder round shot; 500 ball cartridges; 500 percussion caps; 12 revolver pistols; 300 ball cartridges for ditto; 500 percussion caps for ditto; 5 cutlasses; 8 water-casks; 3 charts.

JOHN LOW,
Lieut., Com'dg Confederate States bark Tuscaloosa.
W. R. KENNEDY,
Lieut., her Majesty's ship Narcissus.

[Enclosure 13 in No. 9.]

Sir P. Wodehouse to Rear-Admiral Sir B. Walker.

GOVERNMENT HOUSE,
Cape Town, January 4, 1864.

SIR: I beg to acquaint your excellency that it appears from a communication received from the consul for the United States, that he is not in a position to receive charge of the *Tuscaloosa* on account of her original owners, and that he therefore desires her to remain for the present in charge of the British authorities. Under these circumstances, and as I cannot take charge of the vessel without entailing some expense on her Majesty's government, I am induced to ask whether it will be in your excellency's power to make arrangements for her safe custody until she can be properly transferred to her lawful owners.

I have, &c.,

P. E. WODEHOUSE.

No. 10.

Sir F. Rogers to Mr. Hammond.—(Received February 25.)

DOWNING STREET, *February 25, 1864.*

SIR: With reference to previous correspondence on this subject. I am directed by the Duke of Newcastle to transmit to you, for the consideration of Earl Russell, the accompanying copies of two despatches received from the governor of the Cape of Good Hope reporting the circumstances connected with the seizure of the *Tuscaloosa* by the colonial government.

I am, &c.,

FREDERICK ROGERS.

[Enclosure 1 in No. 10.]

Sir P. Wodehouse to the Duke of Newcastle.

GOVERNMENT HOUSE,
Cape Town, January 11, 1864.

MY LORD DUKE: I very much regret having to acquaint your grace that the confederate prize vessel, the *Tuscaloosa*, has again entered Simon's bay, and that the naval commander-in-chief and myself have come to the conclusion that,

in obedience to the orders transmitted to his excellency by the admiralty, and to me by your grace's despatch of the 4th November last, it was our duty to take possession of the vessel, and to hold her until properly claimed by her original owners. The admiral, therefore, sent an officer with a party of men from the flag-ship to take charge of her, and to deliver to her commander a letter in explanation of the act. Copies of his protest, addressed to me, and of my reply, are enclosed. He not unnaturally complains of having been now seized after he had on the previous occasion been recognized as a ship of war. But this is manifestly nothing more than the inevitable result of the overruling by her Majesty's government of the conclusion arrived at on the previous occasion by its subordinate officer.

The consul for the United States, on being informed of what had taken place, intimated his inability to take charge of the ship on account of the owners, and expressed a desire that it should remain in our charge until he was put in possession of the requisite authority. Accordingly, after taking the opinion of the attorney general, it was arranged that the vessel should remain in the charge of Sir Baldwin Walker.

I ought to explain that the seizure was made without previous reference to the attorney general. I did not consider such a reference necessary. The law had been determined by her Majesty's government on the previous case. The admiral was of opinion that we had only to obey the orders we had received, and on his intimating that opinion I assented.

Your grace will observe that at the request of the officers of the Tuscaloosa the admiral has permitted them to remain on board, in expectation of the immediate arrival of the Alabama, to which ship they wish to return. I should otherwise have thought it my duty to provide them with passages to England at the cost of her Majesty's government, by whom, I conclude, they would be sent to their own country; and it is probable that if the Alabama should not soon make her appearance such an arrangement will become necessary.

I have only to add that I have thought it advisable, after what has now occurred, to intimate to the United States consul that we should probably be under the necessity of adopting similar measures in the event of an uncondemned prize being fitted for cruising and brought into one of our ports by a federal ship of war. I did not speak positively, because I have been left in doubt by your grace's instructions whether some distinction should not be drawn in the case of a ship of war of one belligerent captured and applied to the same use by the other belligerent, but the consul was evidently prepared for such a step. Copies of all the correspondence are enclosed.

I have, &c.,

P. E. WODEHOUSE.

[Enclosure 2 in No. 10.]

Mr. Rawson to Mr. Graham.

COLONIAL OFFICE, *December 28, 1863.*

SIR: I am directed by the governor to acquaint you that the Tuscaloosa having again arrived in Simon's bay, will, under instructions lately received from her Majesty's government, be retained under her Majesty's control and jurisdiction until properly reclaimed by her original holders.

I have, &c.,

RAWSON W. RAWSON,
Colonial Secretary.

[Enclosure 3 in No. 10.]

Mr. Rawson to Sir P. Wodehouse.

UNITED STATES CONSULATE,
Cape Town, Cape of Good Hope, December 29, 1863.

SIR: I have to acknowledge the receipt of your letter of yesterday's date in reference to the Tuscaloosa.

By virtue of my office as consul for the United States of America in the British possessions of South Africa, of which nation the original owners of the Conrad, *alias* Tuscaloosa, are citizens, I possess the right to act for them when both they and their special agents are absent. I can institute a proceeding *in rem* where the rights of property of fellow-citizens are concerned, without a special procuracy from those for whose benefit I act, but cannot receive actual restitution of the *res* in controversy without a special authority. (See United States Statutes at Large, vol. i, p. 254, notes 2 and 3.)

Under these circumstances, I am content that the vessel in question should for the present, or until the properly authenticated papers and power of attorney shall be received from the owners in America, remain in possession and charge of her Majesty's naval officers. But should it hereafter be determined to give the vessel up to any party other than the real owners, I desire to have sufficient notice of the fact, so that I may take the proper steps to protect the interests of my absent fellow-citizens.

With regard to the property of American citizens seized here at the custom-house, and which was formerly part of the Sea Bride's cargo, I would suggest that it also be held by the colonial government, subject to the order of the original owners. An announcement to that effect from you would be received with great satisfaction by me.

I have, &c.,

WALTER GRAHAM,
United States Consul.

[Enclosure 4 in No. 10.]

Sir P. Wodehouse to the Duke of Newcastle.

GOVERNMENT HOUSE,
Cape Town, January 19, 1864.

MY LORD DUKE: With reference to my despatch of the 11th instant I beg to transmit, for your grace's consideration and instructions, copies of further correspondence with the naval commander-in-chief, the consul of the United States, and the commander of the Tuscaloosa.

I have, &c.,

P. E. WODEHOUSE.

[Enclosure 5 in No. 10.]

Lieutenant Kennedy and Mr. Pounds to Sir B. Walker.

"NARCISSUS," SIMON'S BAY, *January 13, 1864*

SIR: In compliance with your order of the 12th instant we have been on board the bark Conrad, of Philadelphia, to confer with Captain J. Hoets, the United States consular agent, upon the condition of the said ship about to be restored to her original owners, and as we have agreed to and signed the report

drawn up by Captain Hoets for the information of the United States consul, we have the honor to forward a copy of the same, with a notation signed by Captain Hoets, which furnishes the necessary record of the transaction.

We have, &c.,

W. R. KENNEDY, *Lieutenant*.
THOMAS POUNDS.

[Enclosure 6 in No. 10.]

Sir P. Wodehouse to Rear-Admiral Sir B. Walker.

GOVERNMENT HOUSE,
Cape Town, January 19, 1864.

SIR: I have the honor to acknowledge the receipt of your excellency's letter of the 13th instant, and in transmitting copies of correspondence which has passed with the consul of the United States and the commander of the *Tuscaloosa*, I have to beg that you will be good enough to give directions for the property alleged to belong to the Alabama being stored in the dock-yard as proposed.

I have, &c.,

P. E. WODEHOUSE.

[Enclosure 7 in No. 10.]

Lieutenant Low, C. S. N., to Sir P. Wodehouse.

CAPE TOWN, *January 14, 1864.*

SIR: I beg to acknowledge receipt of your letter of yesterday, in which I am informed that it is your excellency's intention to request the naval commander-in-chief to allow the arms and ammunition belonging to the Confederate States to be stored in the dock-yard at Simon's Town.

Whilst thanking your excellency for this intention, I beg to state that as these were placed in my charge by Captain Semmes, of the confederate steamship *Alabama*, I should prefer handing them to his agents in this colony, to be stored by them under the usual customs regulations until instructions can be received as to their disposal, and would respectfully solicit your excellency's permission to have them landed, as I purpose leaving for England by the next mail steamer.

I have further to thank your excellency on behalf of the officers of the *Tuscaloosa* for your offer of assistance on leaving the colony, and to state they have already made their arrangements.

I have, &c.,

JOHN LOW.

[Enclosure 8 in No. 10.]

Mr. Rawson to Lieutenant Low.

COLONIAL OFFICE,
January 18, 1864.

SIR: I am directed by the governor to acknowledge the receipt of your letter of the 14th instant, and to state that on full consideration of the case he thinks it advisable to adhere to the proposal already made, that the guns and other

property alleged to belong to the Alabama should be placed in the dockyard at Simon's Town. They will then be subject to such orders as her Majesty's government may be pleased to make in the matter.

I am also to transmit to you, for your information, copies of a letter which has been received from the consul of the United States, and of the reply given to it by his excellency's directions.

I have, &c.,

RAWSON W. RAWSON.

[Enclosure 9 in No. 10.]

Mr. Graham to Sir P. Wodchouse.

UNITED STATES CONSULATE,

Cape Town. January 16, 1864.

SIR: The report of J. M. Hoets, esquire, on the Tuscaloosa, countersigned by Lieutenant Kennedy of the Narcissus, has been received, and a copy furnished to Admiral Walker. Appended to that report is a list of articles claimed by Lieutenant Low, of the Tuscaloosa, as belonging to the confederate steamer Alabama. Now among the articles enumerated in the list are three 12-pounder cannon taken from the American ship Talisman, and one smaller brass cannon taken from the Sea Bride, as I can prove by the testimony of a competent witness. These cannon I request shall be held for their owners in the same manner as the vessel. Not being able to identify the other articles in this list with perfect certainty, I shall not claim them.

I have, &c.,

WALTER GRAHAM,

United States Consul.

[Enclosure 10 in No. 10.]

Mr. Rawson to Mr. Graham.

COLONIAL OFFICE,

January 18, 1864.

SIR: I am directed by the governor to acknowledge the receipt of your letter of the 16th instant, and to state that the guns to which you refer will be held subject to such instructions as her Majesty's government may think fit to issue respecting them.

I have, &c.,

RAWSON W. RAWSON,

Colonial Secretary.

No. 11.

[Extract.]

The Secretary to the Admiralty to Mr. Hammond—(Received February 25.)

ADMIRALTY, *February 25, 1864.*

With reference to former correspondence I am commanded by my lords commissioners of the admiralty to send you herewith, for the information of Earl

Russell, a copy of a letter from Rear-Admiral Sir Baldwin Walker, dated the 18th January, with copies of its enclosures, relating to the vessel called the Tuscaloosa, and reporting that he has ordered a passage to England in the mail packet for Lieutenant Low, lately in charge of the Tuscaloosa, and of Mr. Sinclair, his first officer.

[Enclosure 1 in No 11.]

Rear-Admiral Sir B. Walker to the Secretary to the Admiralty.

"NARCISSUS," SIMON'S BAY, *January 18, 1864.*

SIR: With reference to my letter of the 5th instant, I have the honor to submit, for their lordships' information, a further correspondence between the governor of this colony and myself relative to the American vessel Conrad, of Philadelphia, lately called the Tuscaloosa.

2. Lieutenant Low, belonging to the Confederate States ship of war Alabama, lately in charge of the Tuscaloosa, having paid off and discharged his crew, finally quitted the vessel on the 9th instant; and I have ordered him a passage to England by the mail packet Saxon, together with his first officer, Mr. Sinclair.

3. The Conrad now remains in charge of a warrant officer and two ship-keepers, awaiting to be properly claimed or disposed of as the government may direct.

I have, &c.,

B. W. WALKER,
Rear-Admiral.

[Enclosure 2 in No. 11.]

Rear-Admiral Sir B. Walker to Sir P. Wodehouse.

"NARCISSUS," SIMON'S BAY, *January 6, 1864.*

SIR: With reference to your excellency's communication of yesterday's date, I have the honor to inform you that I will make arrangements for the safe custody of the Conrad, of Philadelphia, (late Tuscaloosa,) by mooring her in this bay, and putting ship-keepers in charge of her, until she can be properly transferred to her lawful owners.

Lieutenant Low has requested to be allowed to remain on board the vessel, together with his crew, for the present, as he expected the Alabama to arrive here shortly, to which arrangement I have made no objection.

There are some guns and other articles on board the Conrad said to belong to the Alabama, a list of which I have already forwarded to your excellency. It is a matter for consideration how these things should be disposed of.

I think, as a precautionary measure, it may be desirable that some person on the part of the United States consul should visit the Conrad, to observe the state she is in, on being taken into British custody, to prevent any question thereon hereafter.

I have, &c.,

B. W. WALKER.

[Enclosure 3 in No. 11.]

Sir P. Wodehouse to Rear-Admiral Sir B. Walker.

GOVERNMENT HOUSE, *January 9, 1864.*

SIR: With reference to your excellency's letter of the 6th instant, I have the honor to enclose the copy of a letter from the consul of the United States relative to an inspection of the Tuscaloosa.

I have, &c.,

P. E. WODEHOUSE.

[Enclosure 4 in No. 11.]

Mr. Graham to Sir P. Wodehouse.

UNITED STATES CONSULATE,
Cape Town, January 8, 1864.

SIR: Your letter of this date is received, and its request complied with. I have appointed Mr. J. M. Hoets, of Simon's Town, to inspect the Tuscaloosa, and report to me her present condition and equipments. He is also instructed to submit this report to the admiral of the station, or some one authorized to act for him, for an indorsed approval or dissent.

When that report is received I will take pleasure in sending you a copy.

I have, &c.,

WALTER GRAHAM,
United States Consul.

[Enclosure 5 in No. 11.]

Mr. Hoets to Mr. Graham.

SIMON'S TOWN, *January 13, 1864.*

SIR: Pursuant to your letter of the 8th instant, appointing me to make a survey of the bark Tuscaloosa, now in Simon's bay, and take an inventory of the movables on board, I now beg to report as follows:

On going on board at 10 a. m. found the vessel lying moored and dismantled, with only stone ballast in her, the hull, as far as can be ascertained, (without probing,) sound, making very little water; decks defective, considerably worn, particularly the poop deck; the seams open, and some of the planks in a decayed state; outside found seams slack, the metal on her bottom much worn and ragged, about one hundred sheets entirely off in different places.

The general condition of sails and running rigging very much worn; spars, standing rigging, boats, anchors, and cables, serviceable; the ship only having one heavy anchor, another was supplied by her Majesty's dock-yard to moor ship.

Having examined the movables, I am satisfied as to the correctness of the lists taken by Lieutenant Kennedy on the 2d of January last, of which the attached are copies.

I have, &c.,

J. M. HOETS,
United States Consular Agent.

We concur in the above.

W. R. KENNEDY, *Lieutenant, H. M. S. Narcissus.*
THOMAS POUNDS, *Master, H. M. S. Narcissus.*

[Enclosure 6 in No. 11.]

Rear-Admiral Sir B. Walker to Sir P. Wodhouse."NARCISSUS," SIMON'S BAY, *January 18, 1864.*

SIR: Referring to your communication of the 9th instant, relative to the inspection of the *Conrad*, lately called the *Tuscaloosa*, I beg to enclose for your excellency's information the report of the condition of this vessel and her equipments made by Mr. J. Hoets (on the part of the United States consul) and Lieutenant Kennedy and Mr. Pounds, master of her Majesty's ship *Narcissus*.

I have, &c.,

B. W. WALKER.

[Enclosure 7 in No. 11.]

List of sails belonging to the bark Conrad, late Tuscaloosa, unbent and stowed in after-hold.

Foresail.	Mizen topmast staysail.
Fore topsail.	Main trysail.
Fore top-gallant sail.	Spanker.
Fore royal.	Gaff topsail.
Mainsail.	2 lower studding-sails.
Main topsail.	1 topmast studding-sail.
Main top-gallant sail.	2 fore top-gallant studding-sails.
Main royal.	Spare {
Flying jib.	
Jib.	
Fore topmast staysail.	3 topsails, fore or main, quite worn out.
Main topmast staysail.	3 top-gallant studding-sails, fore or main, quite worn out.
Main top-gallant staysail.	Main trysail.

List of running gear belonging to bark Conrad, late Tuscaloosa, jagged up in five-fathom lengths, and stowed in after-hold.

Lot 1. Main buntlines.	Lot 6. Main lifts.
Main topsail buntlines.	Main topsail clewlines.
Main top-gallant sheets.	Main topsail buntlines.
Main trysail out-haul.	Lot 7. Fore topsail clewlines.
Spanker out-haul.	Fore topsail buntlines.
Lot 2. Fore top-gallant and royal braces.	Fore topsail reef tackles.
Main topsail reef tackles.	Lot 8. Main topsail halliards.
Main trysail brails.	Fore topsail halliards.
Lot 3. Jib halliards, sheets, and down-haul.	Fore topmast studding-sail halliards.
Flying jib halliards, sheets, and down-hauls.	Lot 9. Main topmast staysail halliards.
Fore topmast staysail, halliards, sheets, and down-haul.	Main topmast staysail sheets.
Fore top-gallant sheets.	Gaff topsail halliards.
Lot 4. Main braces.	Gaff topsail sheets.
Main topsail braces.	Lot 10. Fore and main tacks.
Lot 5. Fore braces.	Fore and main sheets.
Fore topsail braces.	Lot 11. Main top gear, &c.
N. B.—The whole of this rigging is condemnable.	Chain topsail ties and pendants. Eighty blocks of various sizes, and in good condition.

W. R. KENNEDY, *Lieutenant.*SIMON'S BAY, *January 2, 1864.*

[Enclosure 8 in No. 11.]

List of stores and fittings belonging to the bark Conrad.

1 chronometer.	1 long-boat.
1 barometer.	2 cutters.
2 sextants.	1 bower anchor, 26 cwt.
1 telescope.	1 kedge anchor, 6 cwt.
2 time-pieces.	1 kedge anchor, 3 cwt.
1 Brazilian ensign.	2 chain cables, 85 fathoms.
1 American ensign.	1 box of charts.
Standing and running rigging complete, but in very bad condition.	
No spare stores of any description on board.	

J. LOW,
Lieutenant, Com'dg Confederate States bark Tuscaloosa.
 W. R. KENNEDY,
Lieutenant, H. M. S. Narcissus.

List of stores belonging to the confederate sloop-of-war Alabama on board the Conrad.

1 chronometer.	6 12-pounder rifle shot.
3 sextants.	6 12-pounder round shot.
1 telescope.	500 ball cartridges.
1 code of signals and signal-book.	500 percussion caps.
1 Dutch ensign.	12 revolver pistols.
1 confederate ensign.	300 ball cartridges for pistols.
22 rifles and bayonets.	500 percussion caps for pistols.
2 12-pounder rifled brass guns.	5 cutlasses.
1 12-pounder smooth-bore brass gun.	8 water casks.
2 barrels gunpowder, 100 lbs. each.	3 charts.
100 cartridges, (1 lb.)	

J. LOW,
Lieutenant, Comm'dg Confederate States bark Tuscaloosa.
 W. R. KENNEDY,
Lieutenant, H. M. S. Narcissus.

No. 12.

Mr. Elliot to Mr. Hammond.—(Received March 7.)

DOWNING STREET, March 7, 1863.

SIR: With reference to your letter of the 22d ultimo, relative to the seizure of the Tuscaloosa by the authorities at the Cape of Good Hope, I am directed, by the Duke of Newcastle, to transmit to you, for the information of Earl Russell, a copy of a despatch which his grace has addressed to the governor of that colony on the subject.

I am, &c.,

T. FREDERICK ELLIOT.

[Enclosure in No. 12.]

*The Duke of Newcastle to Sir P. Wodehouse.*DOWNING STREET, *March 4, 1864.*

SIR: I have received your despatches of the 11th and 19th January, reporting the circumstances connected with the seizure of the confederate prize-vessel *Tuscaloosa*, under the joint authority of the naval commander-in-chief and yourself. I have to instruct you to restore the *Tuscaloosa* to the lieutenant of the Confederate States who lately commanded her, or, if he should have left the Cape, then to retain her until she can be handed over to some person who may have authority from Captain Semmes, of the *Alabama*, or from the government of the Confederate States, to receive her.

You will receive a further communication from me on this subject by the next mail.

I have, &c.,

NEWCASTLE.

No. 13.

*Sir F. Rogers to Mr. Hammond.—(Received March 11.)*DOWNING STREET, *March 11, 1864.*

SIR: With reference to my letter of the 6th instant, I am directed, by the Duke of Newcastle, to transmit to you, for Lord Russell's information, the copy of a further despatch which his grace has addressed to the governor of the Cape of Good Hope relative to the case of the *Tuscaloosa*.

I am, &c.,

FREDERICK ROGERS.

[Enclosure in No. 13.]

*the Duke of Newcastle to Sir P. Wodehouse.*DOWNING STREET, *March 10, 1864.*

SIR: In my despatch of the 4th instant I instructed you to restore the *Tuscaloosa* to the lieutenant of the Confederate States who lately commanded her; or, if he should have left the Cape, then to retain her until she could be handed over to some person having authority from Captain Semmes, of the *Alabama*, or from the government of the Confederate States, to receive her.

I have now to explain that this decision was not founded on any general principle respecting the treatment of prizes captured by the cruisers of either belligerent, but on the peculiar circumstances of the case. The *Tuscaloosa* was allowed to enter the port of Cape Town, and to depart, the instructions of the 4th of November not having arrived at the Cape before her departure. The captain of the *Alabama* was thus entitled to assume that he might equally bring her a second time into the same harbor, and it becomes unnecessary to discuss whether, on her return to the Cape, the *Tuscaloosa* still retained the character of a prize, or whether she had lost that character, and had assumed that of an armed tender to the *Alabama*; and whether that new character, if properly established and admitted, would have entitled her to the same privilege of admission which might be accorded to her captor, the *Alabama*.

Her Majesty's government have, therefore, come to the opinion, founded on the special circumstances of this particular case, that the *Tuscaloosa* ought to be released, with a warning, however, to the captain of the *Alabama*, that the

ships of war of the belligerents are not to be allowed to bring prizes into British ports, and that it rests with her Majesty's government to decide to what vessels that character belongs.

In conclusion, I desire to assure you that neither in this despatch, nor in that of the 4th November, have I desired, in any degree, to censure you for the course you have pursued. The questions on which you have been called upon to decide are questions of difficulty, on which doubts might properly have been entertained, and I am by no means surprised that the conclusions to which you were led have not in all instances been those which have been adopted, on fuller consideration, by her Majesty's government.

I am, &c.,

NEWCASTLE.

Mr. Seward to Mr. Adams.

No. 878.]

DEPARTMENT OF STATE,
Washington, March 21, 1864.

SIR: Mr. Dudley, our consul at Liverpool, has made a report to this department upon the delays of the proceedings, on our requisition, in the case of the pirate Joseph L. Gerity. I trust that you are doing what can be done to secure a surrender of the offenders.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 627.]

LEGATION OF THE UNITED STATES,
London, March 23, 1864.

SIR: I have to acknowledge the reception of despatches from the department numbered from 859 to 868 inclusive.

I shall take an early opportunity to bring to the notice of Lord Russell your observations on the subject of the instructions to me in July last.

The present period of recess in parliamentary duties may furnish a favorable occasion. At the same time it should be permitted to me to observe that the importance of any effect to be produced by action of this kind on the future is somewhat modified by the great probability that the present ministry will go out of office soon on questions wholly disconnected with their policy towards the United States.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

Mr. Adams to Mr. Seward.

No. 628.]

LEGATION OF THE UNITED STATES,
London, March 23, 1864.

SIR: A representation made by Mr. Morse in regard to a supposed outfit of a war vessel recently sold by the government has led to an exchange of notes with the Foreign Office, copies of which are herewith transmitted.

I likewise send such information as I have been able to get respecting the proceedings in the case of the Pampero at Glasgow. It would seem that the Scotch jurists feel themselves less embarrassed by technical difficulties than their brethren in this kingdom.

I learn from a good source that there will be a difference of opinion among the law lords in the appealed case respecting the Alexandra. But I know not how this will affect the decision.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCOIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

[Enclosures.]

1. Mr. Adams to Lord Russell, March 18, 1864.
2. Mr. Morse to Mr. Adams, March 17, 1864.
3. Lord Russell to Mr. Adams, March 18, 1864.
4. Morning Star, March 23, 1864.

Mr. Adams to Lord Russell.

LEGATION OF THE UNITED STATES,

London, March 18, 1864.

MY LORD: I have the honor to submit to your consideration the copy of a letter addressed to me by Mr. Morse, the consul of the United States at this port, relative to another war vessel, lately belonging to her Majesty's government, which is fitting out under suspicious circumstances.

I pray your lordship to accept the assurances of the highest consideration with which I have the honor to be, my lord, your most obedient servant,

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c., &c.

[Enclosure.]

1. Mr. Morse to Mr. Adams, March 17, 1864.

Mr. Morse to Mr. Adams.

UNITED STATES CONSULATE,

London, March 17, 1864.

SIR: Some time since the screw steamer Amphion, a fifty-gun ship of war, was sold out of her Majesty's service, as was supposed, for *breaking up*. She has recently had some partial repairs made on her, and temporary or jury masts put in, as though preparing for a short voyage. She has had steam up once or twice this week, as if preparing to move out of dock. Her fittings as a ship of war are still complete; and I am informed that the real owners or their agents here intend to move her to some more quiet locality, where a thorough refitting will attract less attention.

She is not registered, nor has there been any notice given at either custom-house or registry office of an intention to register.

She is now in the Victoria dock, London, and may leave at any time when the tide serves for leaving the docks. Permit me to suggest the propriety of asking the attention of the government here to this ship, that there may not be another escape, and a repetition of the Rappahannock case, which I have reason to fear is the intention of those controlling her.

I am, sir, very respectfully, your obedient servant,

F. H. MORSE, *Consul*.

Hon. C. F. ADAMS,
United States Minister.

Lord Russell to Mr. Adams.

FOREIGN OFFICE, *March 18, 1864.*

SIR: I have the honor to acknowledge the receipt of your letter of this date calling the attention of her Majesty's government to the circumstances under which the Amphion, a vessel lately sold out of her Majesty's navy, is being fitted out for sea, and I have the honor to inform you that I have lost no time in forwarding a copy of your note to the secretary of state for the home department.

The attention of her Majesty's government was directed to this vessel in January last, but it turned out, upon inquiry, that she was lying in the Victoria docks completely dismantled and dismasted, with no signs of any fitting out for sea having commenced; and the impression among the dock officials was that it was intended to employ her as an emigrant vessel.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Slip from the Morning Star of March 23, 1864.

While the Alexandra case has got into a position of such hopeless muddle that even the judgment of the supreme court, before which it was last pleaded, can do nothing more than settle a point of form as to the powers of the exchequer judges to make certain rules, it is somewhat satisfactory to find that in a similar cause now before the Scotch courts a judgment has already been given which goes to the marrow of the vexed question under the foreign enlistment act. The Pampero was seized in the Clyde under very much the same circumstances as the Alexandra was detained in the Mersey, upon the allegation that she was being fitted out as a confederate privateer. Unfortunately for the reputation of Glasgow, the Japan—now the Georgia—had formerly managed to escape, and commence her detestable work of burning the merchant ships of the United States of America. In seizing the Pampero the government were thus not acting without having good and sufficient reasons, although the parties implicated, like their Liverpool associates, have not been without abettors in Parliament. The case came before the exchequer judge of the court of session, upon an elaborate information at the instance of the crown, framed apparently upon the model of that which has been so well torn to pieces in the Alexandra

discussions. The defendants took exceptions to the relevancy in point of law of certain of the counts in the indictment, upon the same grounds as were urged by Sir Hugh Cairns and his brethren in the exchequer court. They contended that these objections should be disposed of before trial, but the exchequer judge decided that it would be better to get at the facts in the first instance before dealing with the objections to the relevancy, and appointed a day for trial. The defendants appealed to the "Inner House," which fulfils in Scotland the functions of the exchequer chamber in such cases as the present, and on Friday last their lordships united in a very sound judgment, which we may well commend to the attention of the lord chief baron, and those who have spun so many flimsy theories in favor of privateer builders out of the seventh section of the statute.

Two leading objections were taken by the defendants: first, that with which we are now tolerably familiar, that as the information did not contain any allegation of arming, the statutory words "equip, fit out, and furnish" were not applicable in regard to a cruiser or vessel intended to commit hostilities; and the second, that the statute is not directed against those who merely equip a vessel even when it is intended to commit hostilities, if the hostilities are not meditated by the actual equippers, but by purchasers, or parties into whose hands the vessel may ultimately come. Upon the first objection we had the opportunity of making some comments when the *Alexandra* case was tried, and when the lord chief baron was reported to have ruled upon the authority of a dictionary that all the three expressions above quoted meant, and in the case of a cruiser could mean something else than, actual arming. Unfortunately the points of law in the English trial have never come up purely upon their merits, but the whole proceedings have been from first to last a confused wrangle, little creditable to English jurisprudence. It is all the more important, therefore, to have the decisive ruling of the Scotch judges upon the meaning of this imperial statute. In the court of review the finding of the exchequer judge, that all the questions of law should be postponed until after the trial of the facts, was not entirely assented to, the judges concurring that it would be better to dispose at once of those objections to the information which related solely to the construction of the statute. That which related to the "arming" theory was very summarily set aside by the lord president (McNeill) in a manner antagonistic to the ruling of the chief baron. After recapitulating the version contended for, that the words "equip, fit out, and furnish" applied to a transport or store-ship, and the subsequent phrase "or arm" was the sole expression intended to be applicable to a cruiser, the first judicial authority in Scotland sharply adds, "I think that is a very strained interpretation, and I cannot adopt it." Then upon the further proposition that the word "arm" being applicable to a cruiser, and no such act being alleged in the information, while the words "equip, fit out, and furnish" alone were used, the information was defective, his lordship added, "I am of opinion that the words 'equip, furnish, and fit out' are sufficient, and that those words will cover a greater or less extent of arming." Lord Curriehill held that the words "equip, furnish, fit out, or arm" were used in the British statute as synonymous with or as exegetical of each other, and that, moreover, their meaning was to be such as would harmonize with the intents set forth in the context. He was therefore of opinion that the objection that arming was not expressly added to equipping in describing the offence in the first ninety-six counts of the indictment was not well founded. Lord Deas, after splitting some hairs, came substantially to the same conclusion; and Lord Ardmillan, who entered more fully into the general question, gave his opinion no less decisively that it was not necessary to allege arming in the information, because the word "equip" might, in his view, cover arming to a greater or less extent; and further, that the statutory offence might be committed without the ship being actually armed. The judgment unanimously pronounced was in accordance with these views. Upon the more subtle objection, that the statute is

not directed against equipping a vessel as a cruiser unless the actual equippers intend to commit the hostilities, the judges were equally unanimous. They repelled both pleas, and ordered the case for trial on the 5th of April.

These four judges, all of them men of distinguished ability, and the lord president of the court, especially conspicuous for the clearness and vigor of his mind, must now be added to the two judges of the court of exchequer who differed from the ruling of the lord chief baron upon the construction of this imperial statute. It is somewhat novel to find Scotch judges brushing aside legal cobwebs and subtle theories, and arriving at the sound common sense construction of an act which has puzzled the experienced minds of the English bench, but none the less satisfactory that the views adopted by the law officers of the crown have thus received the imprimatur of the highest court in the sister kingdom. We cannot doubt, if the lord chief baron had allowed the bill of exceptions originally tendered by the counsel for the crown, that the same sound views would before this have been announced by the highest judicial authority in the empire. The House of Lords is now occupied, not with the main question at issue, but with the subsidiary, and compared to the importance of the action the very paltry, point whether the novel remedy granted by the barons of the exchequer in lieu of the ordinary procedure in cases of misdirection was within the competency of the barons to grant or not. That may be a most interesting question for the lawyers, and it has apparently puzzled the House of Lords; but the public do not care one jot whether the rules be sustained or repealed. They have some anxiety to ascertain if the foreign enlistment act be sufficient to preserve our ports from being made the starting points of armed expeditions against friendly nations. In consequence of repeated miscarriages we cannot have that satisfaction at present from the decision to be given in the case of the *Alexandra*, although we cannot believe that even an adverse judgment against the crown on the subsidiary question will have the effect of throwing the case out of court, and we are therefore all the more thankful that light has been shed upon the construction of the statute by the Scotch judges. It would be well for those who meditate embarking in the nefarious traffic to consider the tendency of the decision in the case of the *Pampero*, and the strong probability, all but amounting to a certainty, that the same views will ultimately be propounded by the highest judicial authority in England.

Mr. Moran to Mr. Seward.

LEGATION OF THE UNITED STATES,
London, March 18, 1864.

SIR: I am directed by Mr. Adams to forward for your information the accompanying paper just received from Mr. H. J. Sprague, United States consul at Gibraltar. It contains an extract of a letter to that gentleman from Mr. McMath, the consul at Tangier, respecting a suspicious armed vessel recently seen in the bay of Agadeer, Morocco, supposed to be either the pirate *Oreto* or the *Japan*, and a statement received by the same gentleman from a friend in Malaga regarding the reports lately circulated in the Spanish newspapers that the arms found on board the British steamer *Princess*, recently seized at that port, were intended for the use of rebel corsairs.

I have the honor to be, sir, with great respect, your obedient servant,
BENJAMIN MORAN,
Assistant Secretary of Legation

HON. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

Mr. McMath to Mr. Sprague.

[Extract.]

CONSULATE GENERAL OF THE UNITED STATES OF AMERICA,
Tangier, March 9, 1864.

SIR: I have to inform you that I this day received information from my vice-consul at Mogadore that on the 4th instant a number of Arabs arrived at Mogadore, and gave information that a large black steamer, having a large crew and a number of guns, displaying no flag, had been and then was lying in a small and secure inlet near the bay of Agadeer. Said vessel reached her anchorage on or about the 27th February. The vessel had not communicated with the shore. There are no Christians or Jews residing at or near Agadeer, and the latter is not a legalized port of entry, has no batteries, and, in fact, is nothing but a wild and dreary coast. The conclusion I have come to is that said vessel is either the Georgia or Florida, put into this secluded place with a view of receiving a cargo of coal from a tender. Agadeer is about sixty or seventy miles west of Mogadore, and is itself a safe harbor. I think, as I have all along thought, that in view of the late order in the British council restricting the rights of belligerent vessels, an attempt would be made to receive tenders with cargoes of coal, and perhaps other supplies, from such secluded and almost unknown ports on the west coast of Africa. From Mogadore to Tetuan the authority of the Sultan is supreme, but at the place mentioned we could not expect an enforcement of the royal order of 24th September. I give you this information, leaving you to decide whether it would be advisable to suggest a cruise at once of some of our vessels that may be in reach.

JESSE H. McMATH.

HORATIO J. SPRAGUE,
United States Consul, Gibraltar.

From Mr. Sprague.

MALAGA, March 8, 1864.

There is no foundation for what some Spanish papers have said with regard to the destination of the cargo, arms, &c., per Princess, being for supplying confederate steamers. There is no doubt that they were intended for either Italy or Circassia—most likely the latter. It is true that most of the arms are for ship's use, or rather for being used on board ship; but, on the other hand, of what service would scaling ladders, pickaxes, shovels, sand-bags, and beds for wounded, be on board? The crew all signed articles for Ancona. They were to have £16 each for the voyage. The captain tells us that the person who seemed to manage all the affair looked and was said to be a Pole. A couple of days ago he received a letter from count somebody, saying that he was about starting for Madrid, and that he expected that the government would give everything back. The steamer herself has been pierced for carrying some small guns. She is a trumpery boat, but quite unfit for a confederate cruiser, and only adapted for river service.

Mr. Adams to Mr. Seward.

No. 629.]

LEGATION OF THE UNITED STATES,
London, March 24, 1864.

SIR: In connexion with my despatches, No. 610, of the 10th, and No. 623, of the 18th instant, both of them growing out of the instructions contained in

your No. 847, of the 17th of February, I now transmit a copy of Lord Russell's note of the 19th instant in reply.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

Lord Russell to Mr. Adams.

FOREIGN OFFICE, *March 19, 1864.*

SIR: With reference to my note of the 10th instant, I have the honor to inform you that her Majesty's government have called upon Mr. Butterfield, the British vice-consul at Key West, to furnish a full report with regard to his proceedings in the case of Mr. E. T. Rich, which formed the subject of your letter of the 8th instant. With respect, however, to the proceedings of Mr. Butterfield in the case of Mr. Ring, also alluded to in your above-mentioned letter, I have the honor to inform you that Lord Lyons has been instructed to state to Mr. Seward, with whom he has been in communication on the subject, that, after careful consideration of all the circumstances of the case, her Majesty's government are of opinion that Mr. Butterfield's conduct in this matter has been proper, and has not, in any respect, merited animadversion.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 630.]

LEGATION OF THE UNITED STATES.

London, March 24, 1864.

SIR: The Archduke Maximilian came here for the purpose of getting a recognition of his new position. His father-in-law, Leopold, is here to favor his object. The government declined to act on the subject at present, but gave reason to hope that, so soon as the action in Mexico would appear to justify it, they would acknowledge him. It is understood that Spain and Belgium will follow in the wake of France, after which the other powers are expected to accede.

A loan has been negotiated for eight millions sterling, at 66 —, interest at 6 per cent., out of which a payment is to be made to France, in part, for the expense she has been at. The rest is to be used to organize a proper support for the archduke until he can get things going. The English creditors in the old loan, who have constituted the great support of this scheme, are greatly disturbed to find that no provision has been made for them.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

Mr. Adams to Mr. Seward.

No. 633.]

LEGATION OF THE UNITED STATES,
London, March 29, 1864.

SIR: I seize the opportunity furnished by the despatch agent in making up an extra bag for to-morrow's steamer to forward a printed copy of the correspondence of the government with Messrs. Laird touching the detention of the iron-clad rams. This publication is not official, but understood to come from Messrs. Laird.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

Correspondence between her Majesty's government and Messrs. Laird Brothers; and an appendix, containing the correspondence between officers of her Majesty's customs and Captain Inglefield, R. N., and Messrs. Laird Brothers, respecting the iron-clad vessels building at Birkenhead.

The following letters form the entire correspondence which has passed between Messrs. Laird Brothers and her Majesty's government respecting the iron-clad vessels.

The production of these letters, with other papers, was moved for in the House of Commons by Mr. Seymour Fitzgerald, M. P., on the 23d of February last, but was refused by her Majesty's government.

They are now published with the permission of Messrs. Laird Brothers.

VACHER & SONS, *Publishers.*

29, PARLIAMENT STREET, *March, 1864.*

CORRESPONDENCE BETWEEN HER MAJESTY'S GOVERNMENT AND MESSRS. LAIRD BROTHERS.

[Confidential]

Laird Brothers to S. Price Edwards, esq., collector of H. M. customs, Liverpool.

BIRKENHEAD IRON-WORKS,
Birkenhead, September 4, 1863.

SIR: As the many rumors afloat in respect to the two iron steam rams built by us, and now lying in our dock, have induced frequent and unusual visits of Mr. Morgan, the surveyor of customs, to our works, we are desirous of saving you any further unnecessary trouble about these vessels by giving you our promise that they shall not leave the port without your having a week's notice of our intention to deliver them over to the owners, and we shall inform the owners of this engagement on our part.

We may add that the first vessel will not be ready for a month, and the second for six or seven weeks from this date.

We are, sir, your obedient servants,

LAIRD BROTHERS.

PRICE EDWARDS, Esq.

S. Price Edwards, esq., collector of H. M. customs, Liverpool, to Laird Brothers.

CUSTOM-HOUSE, LIVERPOOL,

September 5, 1863.

GENTLEMEN: I beg to thank you for your note of yesterday's date, wherein you kindly promise to inform me, by a week's notice, of your intention to deliver to the owners the two iron steam rams now being built by you, in order that the government may be informed of their being ready for sea.

This circumstance will, I know, be satisfactory to the board of customs.

I am, gentlemen, your obedient servant,

S. PRICE EDWARDS.

Messrs. LAIRD BROTHERS.

Her Majesty's Foreign Office to Laird Brothers.

FOREIGN OFFICE, *September 4, 1863.*

GENTLEMEN: Earl Russell has been led to understand that you have intimated that, while you were not in a position to volunteer information respecting the iron-clad vessels lately launched and now being fitted out at your yard, you would readily furnish information upon an official application in writing being made to you for it.

Under these circumstances, Lord Russell has instructed me to request you to inform him, with as little delay as possible, on whose account, and with what destination, these vessels have been built.

I am, gentlemen, your obedient servant,

A. H. LAYARD.

Messrs. LAIRD & Co., *Birkenhead.*

Laird Brothers to Her Majesty's Foreign Office.

BIRKENHEAD, *September 5, 1863.*

SIR: We have received your letter of the 4th instant, stating that Lord Russell has instructed you to request us to inform him, with as little delay as possible, on whose account and with what destination we have built the iron-clad vessels recently launched and now in course of completion at our works.

In reply, we beg to say, that although it is not usual for ship-builders to declare the names of parties for whom they are building vessels until the vessels are completed and the owners have taken possession, yet in this particular case, in consequence of the many rumors afloat, coupled with the repeated visits of Mr. Morgan, the surveyor of customs, to our works, we thought it right to ask permission of the parties on whose account we are building the vessels to give their names to the English government, in the event of such information being asked for officially in writing.

They at once granted us the permission we sought for.

We therefore beg to inform you that the firm on whose account we are building the vessels is A. Bravay & Co., and that their address is No. 6 Rue de Londres, Paris, and that our engagement is to deliver the vessels to them in the port of Liverpool when they are completed, according to our contract.

The time in which we expect to have the first vessel so completed is not less than one month from this date, and the second not less than six or seven weeks from this date.

We are, sir, your obedient servants,

LAIRD BROTHERS.

A. H. LAYARD, Esq., *M. P.*

Laird Brothers to S. Price Edwards, esq., collector of H. M. customs, Liverpool.

[Confidential.]

BIRKENHEAD IRON WORKS,
Birkenhead, September 8, 1863.

SIR: Referring to our letter to you of the 4th instant, we think it right to inform you that it is our intention to take one of the iron-clads, the *El Tousson*, from our graving dock for a trial trip on Monday next, within the usual limits of such trial trips; and you may rely on our bringing the vessel into the Birkenhead float when the trial is finished, it being our intention to complete the vessel in the Birkenhead float.

This trial is necessary to test the machinery and other parts, but will not alter the time previously stated for the completion of the vessel.

We are, sir, your obedient servants,

LAIRD BROTHERS.

S. PRICE EDWARDS, Esq.

Her Majesty's Treasury to Laird Brothers.

13,132½.

TREASURY CHAMBERS, *September 9, 1863.*

GENTLEMEN: I am desired by my lords commissioners of her Majesty's treasury to acquaint you that their lordships have felt it their duty to issue orders to the commissioners of customs that the two iron-clad steamers now in the course of completion in your dock at Birkenhead are not to be permitted to leave the Mersey until satisfactory evidence can be given of their destination, or at least until the inquiries which are now being prosecuted with a view to obtain such evidence shall have been brought to a conclusion.

I am, gentlemen, your obedient servant,

GEO. A. HAMILTON.

Messrs. LAIRD & Co., *Birkenhead.*

S. Price Edwards, esq., collector of her Majesty's customs, Liverpool, to Laird Brothers.

CUSTOM-HOUSE, *Liverpool, September 11, 1863.*

DEAR SIR: I am sorry to say there can be no trial trip of the iron-clad ship until Earl Russell's reply can be had. That reply may yet come in time to meet your wishes.

I am, dear sirs, yours, very truly,

S. P. EDWARDS.

Messrs. LAIRD BROTHERS.

Laird Brothers to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,
Birkenhead, September 10, 1863.

SIR: We are in receipt of your letter of the 9th instant, informing us that the lords commissioners of her Majesty's treasury have issued orders to the commissioners of customs that the two iron-clad steamers now in course of con-

struction by us are not to be permitted to leave the Mersey until satisfactory evidence can be given of their destination.

In reply, we beg to inform you that we have forwarded a copy of your letter to Messrs. A. Bravay & Co., at No. 6 Rue de Londres, Paris, on whose account we are building the vessels, and to whom we beg to refer you for further information, inasmuch as our engagement with them is to deliver the vessels at the port of Liverpool when they are completed, according to our contract.

It may be useful to the lords commissioners of her Majesty's treasury to know that the time in which we expect to have the first vessel so completed is not less than one month from this date, and the second vessel not less than six or seven weeks from this date.

We are, sir, your obedient servants,

LAIRD BROTHERS.

GEORGE A. HAMILTON, Esq.

S. Price Edwards, esq., collector of H. M. customs, Liverpool, to Laird Brothers.

LIVERPOOL, *September 14, 1863.*

DEAR SIRS: You have the permission of the government to try the iron-clad ship, on your guarantee to return her.

I have only this moment received the telegram.

Yours truly,

S. PRICE EDWARDS.

Messrs. LAIRD BROTHERS.

S. Price Edwards, esq., collector of H. M. customs, Liverpool, to Laird Brothers.

CUSTOM-HOUSE, *Liverpool, September 17, 1863.*

GENTLEMEN: With reference to the wish expressed by you, that one of the iron-clad vessels in your yard may be permitted to make a trial trip, I am directed to inform you that the lords commissioners of her Majesty's treasury will allow the trial trip to be made by the vessel referred to in your letter of the 8th instant, relying upon the honorable engagement which has been given by you that the ship shall, after the usual trial trip, be brought back again to Liverpool, and shall not leave that port without a week's notice to her Majesty's government of the intention to send her away.

I am, gentlemen, your obedient servant,

SAMUEL PRICE EDWARDS, *Collector.*

Messrs. LAIRD BROTHERS, *Birkenhead.*

Laird Brothers to S. Price Edwards, esq., collector of H. M. customs, Liverpool.

BIRKENHEAD IRON WORKS,

Birkenhead, September 18, 1863.

SIR: We beg to acknowledge the receipt of your letter of the 17th instant, informing us that the lords commissioners of her Majesty's treasury will allow the trial trip to be made by the vessel referred to in our letter of the 8th instant, relying upon the honorable engagement which has been given by us that the ship

shall, after the usual trial trip, be brought back again to Liverpool, and shall not leave that port without a week's notice to her Majesty's government of the intention to send her away.

This engagement was made under the circumstances set forth in our previous correspondence, and we now beg to confirm the same; and are, sir, your obedient servants,

LAIRD BROTHERS.

SAMUEL PRICE EDWARDS, Esq.,

Collector of her Majesty's Customs, Liverpool.

Her Majesty's Treasury to Laird Brothers.

TREASURY CHAMBERS, *September 19, 1863.*

GENTLEMEN: On the 13th instant the lords commissioners of her Majesty's treasury directed the board of customs to inform you that their lordships would allow a trip to be made by the iron-clad vessel referred to in a letter written by you on the 8th instant, in reliance upon the honorable engagement which had been given by your firm, that the vessel should, after the usual trial trip, be brought back again to Liverpool, and should not leave that port without a week's notice to her Majesty's government of the intention to send her away.

I am now commanded by the lords commissioners of her Majesty's treasury to inform you that since that permission was given, circumstances have come to the knowledge of her Majesty's government which give rise to an apprehension that an attempt may be made to seize the vessel in question while on her trial trip.

I am to state to you explicitly that her Majesty's government are convinced that it is your intention, as far as it is in your power, to fulfil honorably the engagement into which you have entered; and that if any such attempt were made, it would be entirely without the privity of your firm, in whose good faith they place perfect confidence.

Inasmuch, however, as such an occurrence, in whatever method it may be brought about, would be contrary to the determination expressed by her Majesty's government that the iron-clad vessels should be prevented leaving the port of Liverpool until satisfactory evidence may be given as to their destination, I am to state to you that this board feel it their duty to apprise you that they cannot permit the trial trip except under provision against any forcible abduction of the vessels.

With this view authority has been given to Admiral Dacres, who is now in the Mersey with the channel fleet, to place, with the concurrence of your firm, on board the iron-clad ram about to be tried, a sufficient force of seamen and marines in her Majesty's naval service, to defeat any attempt to seize her. And I am to request that you will inform their lordships whether you accept such assistance.

In the event of your refusing it, I am to inform you that the board of customs will be instructed to detain the vessel.

I am, gentlemen, your obedient servant,

H. BRAND.

Messrs. LAIRD, *Birkenhead.*

Laird Brothers to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,

Birkenhead, September 20, 1863.

SIR: We have the honor to inform you that we have received your letter

of the 19th instant, and have been in communication with Admiral Dacres and Mr. Edwards, collector of customs, on the subject, and will write to you to-morrow.

The trial of the iron-clad screw steam vessel is deferred.

We are, sir, your obedient servants,

LAIRD BROTHERS,

H. BRAND, Esq.

Laird Brothers to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,
Birkenhead, September 21, 1863.

SIR: We have the honor to reply to your letter of the 19th instant, (received and acknowledged yesterday,) informing us that circumstances have come to the knowledge of her Majesty's government giving rise to an apprehension that an attempt may be made to seize our iron-clad steam vessel on her trial trip, and stating that authority had been given to Admiral Dacres to place, with our concurrence, a sufficient force of seamen and marines on board her to defeat any such attempt.

We are not ourselves aware of any circumstance to induce us to entertain any such apprehension, but we beg to thank her Majesty's government for the protection thus placed at our disposal, of which we shall gladly avail ourselves.

Owing, however, to what you have brought under our notice, and the incomplete state of the vessel, and also the present crowded state of the river Mersey, it will be desirable to defer the trial trip for some days; and, in the mean time, we trust that her Majesty's government will be able to obtain further information as to any project that may exist to deprive us of our property.

We propose to communicate the substance of your letter to Messrs. A. Bravay & Co., of Paris.

We are, &c.,

LAIRD BROTHERS.

Hon. H. BRAND.

Her Majesty's Treasury to Laird Brothers.

TREASURY CHAMBERS, *October 7, 1863.*

GENTLEMEN: Referring to your ready acceptance of the offer of her Majesty's government to prevent any attempt at the forcible abduction of your property, the iron-clad vessel now nearly completed at Birkenhead, and understanding that the trial trip, which has been the subject of former correspondence, has been abandoned, I am directed by the lords commissioners of her Majesty's treasury to acquaint you that, from information which has been received, it has become necessary to take additional means for preventing any such attempt.

Their lordships have, therefore, given instructions that a custom-house officer should be placed on board that vessel, with full authority to seize her on behalf of the crown, in the event of any attempt being made to remove her from the float or dock where she is at present, unless under further directions from their lordships; and likewise to obtain from the officer in command of her Majesty's steamship *Majestic* any protection which may become necessary to support him in the execution of this duty.

My lords request you to understand that these precautions are taken, not from any distrust of your intention to fulfil your engagement of giving a week's notice before the removal of the vessel, nor with the view of interfering in any

way with your workmen in the completion of her, but exclusively for the purpose of preventing an attempt which may be made by other parties to nullify your engagement.

Their lordships have directed Mr. Stewart, the assistant collector of customs at Liverpool, to communicate with you, and they doubt not that these precautions will meet with your concurrence.

I am, gentlemen, your obedient servant,

GEO. A. HAMILTON,

Messrs. LAIRD & Co., *Birkenhead*.

Laird Brothers to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,

Birkenhead, October 21, 1863

SIR: We beg to acknowledge the receipt of your communication of the 7th instant, about the iron-clad vessel now nearest completion, and to inform you that we have been informed by Mr. W. G. Stewart, assistant collector of her Majesty's customs, Liverpool, that he has been directed to place a customs officer on board the iron clad-vessel now nearest completion in the great float, Birkenhead, and that he has directions to seize her in case any attempt be made to remove her from where she is at present.

We have given the necessary order for admission to the vessel (called by us the *El Tousson*) to Mr. Morgan, the surveyor of customs.

We are, respectfully, your mes^{rs} obedient servants,

LAIRD BROTHERS.

G. A. HAMILTON, Esq.

Laird Brothers to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,

Birkenhead, October 9, 1863.

SIR: In further reply to your letter of the 7th instant, (acknowledged yesterday,) informing us that the lords commissioners of her Majesty's treasury have given instructions that a custom-house officer shall be placed on board the iron-clad vessel, now nearly completed at Birkenhead, with full authority to seize her on behalf of the crown, in the event of any attempt being made to remove her from the float or dock where she is at present, unless under further directions from their lordships, and likewise to obtain from the officer in command of her Majesty's steamer *Majestic* any protection which may become necessary to support him in the execution of this duty. We beg to inform you that we have received this day a letter from Mr. Morgan, the surveyor of customs, giving us notice that, by direction of the honorable commissioners of customs, he has this day seized the iron-clad vessel now lying in the great float at Birkenhead.

Since the receipt of your letter of the 7th instant no attempt has been made to remove the vessel from her moorings at the quay in the great float, and we are therefore at a loss to understand this apparent deviation from the decision of their lordships, as expressed in their letter of the 7th, above referred to. But we consider this has been done, not with any distrust of our intentions to fulfil our engagement, of giving a week's notice of our intention to remove the vessel, nor with the view of interfering in any way with the workmen in the completion of her, but exclusively for the purposes of preventing an attempt which may be made by other parties to nullify our engagement.

Although we are not aware of any circumstances to induce us to entertain any apprehension of any attempt being made to deprive us of our property by force, we gladly avail ourselves of any protection her Majesty's government may think necessary for its security.

The vessel is still far from being ready for sea, and the work has been so much retarded by the excessively wet weather that it will be some weeks before she is finally completed.

We are, respectfully, your obedient servants,

LAIRD BROTHERS.

GEO. A. HAMILTON, Esq.

Her Majesty's Treasury to Laird Brothers.

14,464¹⁸.

TREASURY CHAMBERS, October 9, 1863.

GENTLEMEN: I am commanded by the lords commissioners of her Majesty's treasury to inform you that, in consequence of information that has been received by her Majesty's government as to the probability of a forcible abduction of one or both of the iron-clad vessels in course of completion in the float at Birkenhead, their lordships have felt it their duty to order the seizure of both these vessels, and have issued the necessary directions to the commissioners of customs accordingly.

I have the honor to be, gentlemen, your obedient servant,

GEO. A. HAMILTON.

Messrs. LAIRD, *Birkenhead*.

Laird Brothers to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,

Birkenhead, October 17, 1863.

SIR: In reply to your letter of the 9th instant, informing us that, "in consequence of information which has been received by her Majesty's government as to the probability of a forcible abduction of one or both the iron-clad vessels in course of completion in the float at Birkenhead, their lordships had felt it their duty to order the seizure of both these vessels, and have issued the necessary directions to the commissioners of customs accordingly," we have made the fullest inquiry, and have not been able to ascertain any circumstance to induce us to apprehend the probability of a forcible abduction of one or both of the iron-clad vessels in course of completion by us at Birkenhead—one, the *El Tonsson*, in the great float, the public dock, and the other, the *El Monnassir*, in our own dock, on our own premises.

Both vessels are incomplete, and unfit for sea-going; the second vessel has not even got masts or funnel in, and both are in the sole charge of our own people.

We believe, further, that if any such project as the forcible abduction of these vessels had ever been thought of, it could not successfully have been carried out in the port of Liverpool.

Their lordships have so often assured us that they are convinced that it is our intention, so far as in our power, to fulfil honorably the engagement which we have entered into with her Majesty's government, that we have deferred making any formal protest against the seizure of these vessels, or the arbitrary and extraordinary measures that have been carried out in placing an armed force in charge.

We can only suppose that their lordships have been induced to act as they have done by some information, which will be found, on further investigation, to have been entirely erroneous, or greatly exaggerated; and that they will, on the termination of the inquiries they have set on foot to investigate the case, feel justified in removing the vexatious restrictions they have placed upon our property, which have already caused and are still causing us an amount of loss and annoyance not easily estimated.

We remain, sir, your obedient servants,

LAIRD BROTHERS.

GEORGE A. HAMILTON, Esq.

Laird Brothers to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,
Birkenhead, October 17, 1863.

SIR: Referring to your letter of the 7th instant, in which you say that you understand the trial trip of the iron-clad steam vessel the *El Tousson*, now nearly completed, has been abandoned, we beg to inform you, that the trial trip was deferred, but not abandoned, as you will see by referring to our letter addressed to the Hon. H. Brand, on the 21st September, in which we informed him that we considered it desirable to defer the trial trip of the first of the iron-clads, the *El Tousson*, in consequence of the then incomplete state of the vessel and the then crowded state of the river Mersey, and also in order that her Majesty's government might be able to obtain further information as to the project which they had reason to apprehend was in existence—for seizing the iron-clad steam vessel, by force, on her trial trip.

We now beg to inform you that the work at the *El Tousson* is now in such a state of progress as to make it desirable to have a trial trip to test the working of the machinery, and we, therefore, shall be glad to know whether, with the information her Majesty's government have been able to obtain since the date of our former letter, they still consider that the precautions of having a force of seamen and marines on board are necessary to protect our property.

We propose that the trial trip shall take place about the end of next week, or the beginning of the week after—say some day between the 22d and 29th instant—and that it should not extend beyond what is considered the limits of the port, or within sight of the light-ship.

No circumstances have come to our knowledge to induce us to apprehend any attempt to take forcible possession of the vessel on her trial trip; and after the fullest inquiry we are satisfied that if any such project ever existed in the port of Liverpool, the real facts of the case would have been discovered before this, and the parties implicated placed under such surveillance as to render the execution of their design impossible.

Waiting your reply, we remain, sir, your obedient servants,

LAIRD BROTHERS.

GEORGE A. HAMILTON, Esq.

Laird Brothers to S. Price Edwards, collector of H. M. Customs, Liverpool.

BIRKENHEAD IRON WORKS.
Birkenhead October 19, 1863.

SIR: Referring to the several communications we have had with you respecting the trial trip of the iron-clad steamer *El Tousson*, now in course of completion in the great float, and the decision come to on or about the 21st September last

to postpone the trial trip until the work on board was in a more advanced state towards completion, we now beg to inform you that the work is now in such a state of progress as to make it desirable to have a trial trip to test the working of the machinery, and we therefore shall be glad to know whether, with the information her Majesty's government have been able to obtain since the date of our former letter, they still consider that the precautions of having a force of seamen and marines on board are necessary to protect our property.

We propose that the trial trip shall take place about the end of this week or the beginning of the week after—say some day between the 22d and 29th instant—and that it should not extend beyond what is considered the limits of the port, or within sight of the light-ship.

No circumstances have come to our knowledge to induce us to apprehend any attempt to take forcible possession of the vessel on her trial trip; and after the fullest inquiry, we are satisfied that if any such project ever existed in the port of Liverpool, the real facts of the case would have been discovered before this, and the parties implicated placed under such surveillance as to render the execution of their design impossible.

We remain, sir, your most obedient servant,

LAIRD BROTHERS.

S. PRICE EDWARDS, Esq.

Her Majesty's Treasury to Laird Brothers.

[Immediate.]

15,023½

TREASURY CHAMBERS, *October 21, 1863.*

GENTLEMEN: In reply to your letter of the 17th instant, relating to the iron-clad vessels which you are fitting out, I am commanded by the lords commissioners of her Majesty's treasury that, after duly weighing all the circumstances of the case, her Majesty's government are unable to consent to the trial trip of one of those vessels, the *El Tousson*, taking place, as proposed by you; neither can they allow the removal of the armed force which is stationed for the purpose of upholding the custom-house officers in possession of the vessel.

I am, gentlemen, your obedient servant,

GEO. A. HAMILTON.

Messrs. LAIRD,

Birkenhead Iron Works, Birkenhead.

Laird Brothers to Her Majesty's Treasury.

BIRKENHEAD IRON WORKS,

Birkenhead, October 24, 1863.

SIR: We beg to acknowledge receipt of your letter of 21st instant, in which you inform us that her Majesty's government, after duly weighing all the circumstances of the case, are unable to consent to the trial trip of one of the vessels, the *El Tousson*, taking place, as proposed by us.

We beg to state that we did not propose that the trial trip should take place under any other conditions than were set forth in their lordships' letter of the 19th September, unless, from information received since the date of that letter, their lordships should think it no longer necessary to place a force of seamen and marines on board to protect our property; on the contrary, if her Majesty's

government still apprehend any attempt, we will gladly avail ourselves, as already stated in our letter of 21st September, of any protection her Majesty's government may think necessary to defeat any such attempt.

We therefore respectfully renew our application to make the trial trip in the course of next week, or within any other suitable time.

We are, sir, your obedient servants,

LAIRD BROTHERS.

GEORGE A. HAMILTON, Esq.

Her Majesty's Treasury to Laird Brothers.

[Immediate.]

15,310½.

TREASURY CHAMBERS, October 27, 1863.

GENTLEMEN: In reply to your letter of 24th instant, I am commanded by the lords commissioners of her Majesty's treasury to acquaint you that they are unable to comply with your request to make a trial trip of the *El Tousson*, one of the iron-clad vessels fitting in your yard at Birkenhead, in the course of this week, or within any other suitable time.

I am, gentlemen, your obedient servant,

GEO. A. HAMILTON.

Messrs. LAIRD BROTHERS,
Birkenhead Iron Works, Birkenhead.

S. Price Edwards, esq., collector of customs, Liverpool, to Laird Brothers.

CUSTOM-HOUSE, LIVERPOOL,
October 27, 1864.

GENTLEMEN: I hereby beg to inform you that your two cupola vessels are now detained, under the 223d section of "the customs consolidated act," the ground of detention being a violation of "the foreign enlistment act." And I take leave further to state that the officers in charge have received directions to remove your workman at once from on board the ships.

I am, gentlemen, your obedient servant,

S. PRICE EDWARDS, *Collector.*

Messrs. LAIRD BROTHERS,
Birkenhead.

Laird Brothers to her Majesty's Foreign Office.

[TELEGRAM.—October 29, 1863.]

From Laird Brothers, Birkenhead, to Earl Russell, Foreign Office, Whitehall, London.

Captain Inglefield informs us that his orders are to take the two iron-clads into the river Mersey. We protest against the probable destruction of our property in having ships (one of which is a mere hulk, without masts, funnel, or steering gear) taken out of docks, where they are now in safety, and moored in the river: at this inclement season of the year, and we trust that the orders sent to Captain Inglefield will be reconsidered.

Same sent to G. A. Hamilton, Secretary to the Treasury, Treasury, Whitehall, London; and to the Secretary to the Admiralty, Whitehall, London.

Her Majesty's Treasury to Laird Brothers.

[TELEGRAM.—October 29, 1863.]

From the Assistant Secretary, the Treasury, Whitehall, to Messrs. Laird, Birkenhead.

Captain Inglefield will, no doubt, in his dispositions regarding the iron-clad vessels, take every proper precaution for the preservation of the property. The orders have been well considered, and cannot be revoked or altered.

Laird Brothers to her Majesty's Foreign Office, Treasury and Admiralty.

BIRKENHEAD IRON WORKS,
Birkenhead, October 29, 1863.

MY LORD: We sent you this morning the following telegram:

"Captain Inglefield informs us that his orders are to take the two iron-clads into the river Mersey."

"We protest against the probable destruction of our property in having ships (one of which is a mere hulk, without masts, funnel, or steering gear) taken out of docks, where they are now in safety, and moored in the river at this inclement season of the year, and we trust that the orders sent to Captain Inglefield will be reconsidered," which we now beg to confirm.

We are, my lord, your most obedient servants,

LAIRD BROS.

The Right Hon. EARL RUSSELL.

Same sent to G. A. HAMILTON, Esq., Secretary to the Treasury, and to the Secretary to the Admiralty.

Laird Brothers to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,
Birkenhead, October 29, 1863.

MY LORDS: We beg to call your lordships' attention to the very serious position in which we are placed by the extraordinary steps taken by her Majesty's government with the two iron-clad ships now being built by us.

It is a rule well recognized in all trading establishments, that an order, whilst under execution, is the property of the person giving it, and that a builder has no right to make public the orders or instructions of his employers. This is a rule of business which must be well known to her Majesty's government.

On the 4th September, however, we were officially applied to by Mr. Layard for the information "on whose account, and with what destination, the vessels were being built."

Owing, however, to certain vague rumors which were current in the newspapers, and to the repeated visits of Mr. Morgan, the surveyor of her Majesty's customs, we had taken the precaution to obtain the owner's sanction to disclose his name, and we were accordingly enabled, by return of post, to reply to Mr. Layard's letter, and inform him that we were building the ships for Messrs. A. Bravay & Co., 6 Rue de Londres, Paris.

On the 9th September Mr. Hamilton, the secretary to the treasury, wrote us to say that the vessels would not be permitted to leave the Mersey until inquiries then being prosecuted had been brought to a conclusion.

In order to give her Majesty's government ample time to make these inquiries,

we wrote in reply to say that the first vessel would not be complete in less than a month. And about the same time we stated that the first vessel would be ready for a trial trip in a short time, and that we would engage that she should return to the Birkenhead float.

On the 17th September permission was given for the trial trip, and we were further requested to give our personal undertaking that the vessel should not leave the port without our giving a week's notice to her Majesty's government.

This undertaking we readily gave by return of post.

On the 19th September we received a letter from Mr. Brand, secretary of the treasury, to say that the government feared an attempt might be made to seize the vessel whilst on her trial trip, but without giving any reason for such apprehension, and tendering the services of a force of seamen and marines.

We accepted this offer of protection, though unable, ourselves, to discover any grounds for such apprehension.

On the 7th October we received a letter from Mr. Hamilton, secretary of the treasury, stating that, from further information, it had become necessary that a custom-house officer should be placed on board, and the captain of the *Majestic* was instructed to afford him protection.

As none of these movements of her Majesty's government interfered with us in our completion of these ships, and as any plans to seize our ships, either by the northern or southern belligerents, would entail great pecuniary loss upon us, we, of course, made no objection to these means provided by the government for our protection, though we were then, and still are, unable to discover any grounds whatever for these precautionary measures, and we are satisfied that her Majesty's government have lent too credulous an ear to the inventions of designing persons.

But when her Majesty's government, without giving us any information to show us that they have any just grounds for doing so, proceed to seize our ships and turn off our workmen, and threaten to remove a helpless hulk from a place of safety into the open roadstead of the Mersey, we feel it our duty to enter our indignant protest against proceedings so illegal and so unconstitutional.

We have dealt candidly and openly with her Majesty's government. We have, with the owners' permission, given the names of the owners, and we believe we have a perfect legal right to build ships for a French subject without requiring from him a disclosure of his object in having such vessels constructed. It forms no part of our duty to interfere in any way with his affairs, and we shall not do so.

We need hardly say that we hold the government responsible to us for the large pecuniary loss we shall sustain by these arbitrary proceedings.

We are, my lords, your lordships' most obedient servants,

LAIRD BROTHERS.

The LORDS COMMISSIONERS OF H. M. TREASURY.

Laird Brothers to her Majesty's Treasury.

**BIRKENHEAD IRON WORKS,
Birkenhead, October 30, 1863.**

SIR: We received your telegram late yesterday afternoon, as follows:

"Captain Inglefield will, no doubt, in his dispositions regarding the iron-clad vessels, take every proper precaution for the preservation of the property. The orders have been well considered, and cannot be revoked or altered."

We take the liberty to draw the attention of her Majesty's government to the peculiar construction of the hulls and machinery of the vessels built by us

and seized by the government, and to express to them our conviction that it is not possible, in their present incomplete state, for any naval officer, by any dispositions he can make, to protect the vessels from damage even in a dock, and much less in the open roadstead of the Mersey, where, in our opinion, they cannot even be moored with safety in this inclement season of the year.

We are, sir, your obedient servants,

LAIRD BROTHERS.

The SECRETARY TO THE TREASURY.

Her Majesty's Foreign Office to Laird Brothers.

FOREIGN OFFICE, October 30, 1863.

GENTLEMEN: I am directed by Earl Russell to acknowledge the receipt of your letter of the 29th instant, containing copy of a telegraphic message which you addressed to his lordship on that day, protesting against the removal into the Mersey of the two iron-clad vessels now under seizure by the crown, and I am to state to you that the matter has been referred to the lords commissioners of her Majesty's treasury.

I am, gentlemen, your most obedient servant,

E. HAMMOND.

Messrs. LAIRD, *Birkenhead.*

Her Majesty's Admiralty to Laird Brothers.

[In replying, quote the following initial letter M.]

ADMIRALTY, October 30, 1863.

GENTLEMEN: I am commanded by my lords commissioners of the admiralty to acknowledge the receipt of your letter of the 29th instant, forwarding a copy of the telegram sent by you to this office yesterday morning, and confirming its contents, by which you protest against the two iron-clads being taken into the river Mersey, and request that the orders given to Captain Inglefield may be reconsidered.

In reply, I am to inform you that my lords have referred your telegram to the secretary of state for foreign affairs.

I am, gentlemen, your most obedient servant,

W. G. ROMAINE.

Messrs. LAIRD BROTHERS,
Birkenhead.

Laird Brothers to her Majesty's Foreign Office and Treasury.

[TELEGRAM.—October 31, 1863.]

From Laird Brothers, Birkenhead, to Earl Russell, Foreign Office, Downing street, London.

Admiralty write that they have referred to the secretary of state for foreign affairs our telegraph and letter of 29th instant, protesting against the removal of the iron-clads into the river Mersey. We renew our protest against moving the vessels from the dock, where they are now in perfect security either from forcible abduction or sea-risk. The weather is now most boisterous, and always uncertain at this time of the year.

A similar telegram sent to the secretary to the treasury.

Her Majesty's Foreign Office to Laird Brothers.

FOREIGN OFFICE, November 2, 1863.

GENTLEMEN: I am directed by Earl Russell to acknowledge the receipt of your telegraphic message of the 31st ultimo, renewing your protest against the removal from the docks of the two iron-clad vessels now under seizure by the crown; and I am to state to you that the matter has been referred to the lords commissioners of her Majesty's treasury.

I am, gentlemen, your obedient servant,

E. HAMMOND.

Messrs. LAIRD, *Birkenhead.*

Her Majesty's Treasury to Laird Brothers.

[Immediate.]

15, 586 }
11.

TREASURY CHAMBERS, November 2, 1863.

GENTLEMEN: In reply to your letter of the 30th ultimo, representing the danger which the iron-clad vessels now under seizure will incur in consequence of their being removed from your premises, I am commanded by the lords commissioners of her Majesty's treasury to acquaint you that their lordships, having been in communication with the secretary of state in reference to your letter, have nothing to add to the communication made to you by telegram on the 29th ultimo.

I am, gentlemen, your obedient servant,

GEO. A. HAMILTON.

Messrs. LAIRD, *Birkenhead.*

Her Majesty's Treasury to Laird Brothers.

[Immediate.]

15, 467 }
15, 608 }
15, 646 } 11.

TREASURY CHAMBERS, November 3, 1863.

GENTLEMEN: I am commanded by the lords commissioners of her Majesty's treasury to acknowledge the receipt of your letter of 29th ultimo, in which you protest against the measures which her Majesty's government have felt it their duty to adopt for effecting and maintaining the seizure of the two iron-clad vessels at Birkenhead.

I am desired to state, in reply thereto, that their lordships can only refer you to the notice of the cause of seizure conveyed in the letter addressed to your firm by the collector of customs on the 27th ultimo, and that their lordships must decline to enter into any discussion of the subject with you before the investigation which the case will necessarily receive in a court of law.

I am, gentlemen, your obedient servant,

GEO. A. HAMILTON.

Messrs. LAIRD BROTHERS, *Birkenhead.*

Laird Brothers to her Majesty's Foreign Office, Treasury and Admiralty.

BIRKENHEAD IRON WORKS,
Birkenhead, December 7, 1863

MY LORD: We beg to call your attention to the present condition of the two steam vessels, the *El Tousson* and the *El Monnassir*, which have been removed by Captain Inglefield from dock into the river Mersey.

On Thursday last it blew a very heavy gale of wind here, and several large vessels, one of them a large steamer, were driven from their moorings within the estuary.

We understand that no steps are as yet taken to bring the rights of the crown before a jury, and in the mean time the vessels are exposed to great risk.

It is a matter of serious importance to us, as, in case the vessels should be lost or burned in the Mersey before we can deliver them to the owners, we shall be thereby prevented from completing our contract.

Our attention is more immediately called to this subject by the fact that one of the fire policies on the *El Monnassir* expires to-day, and we are in doubt what, under the circumstances, we ought to do.

It is evident that the vessels ought to be insured, both against sea-risk and fire, and we shall be glad to know whether her Majesty's government have taken these precautions for the security of the property, and if not, whether they intend to do so.

We may further state, that we trust the government have given strict orders that proper precautions are taken for the preservation of the property from the injury and deterioration it is liable to from exposure to the damp and wet at this inclement season.

We are, my lord, your obedient servants,

LAIRD BROTHERS.

Copy of above to—

Secretary to Treasury, same date;
Secretary to Admiralty, ditto.

The Right Hon. EARL RUSSELL.

Her Majesty's Treasury to Laird Brothers.

17, 571½.

TREASURY CHAMBERS, *December 10, 1863.*

GENTLEMEN: I am desired by the lords commissioners of her Majesty's treasury to acknowledge the receipt of your letter, dated 7th instant, calling their lordships' attention to the exposed condition of the two steam vessels, *El Tousson* and *El Monnassir*, now lying in the river Mersey, under charge of Captain Inglefield, royal navy.

Your letter, though dated the 7th instant, was not received in London till the 10th, with the Birkenhead postmark of the 9th instant.

My lords desire me to acquaint you that the subjects adverted to in your letter shall receive immediate attention, and that a further communication will be addressed to you thereon.

I am, gentlemen, your obedient servant,

GEO. A. HAMILTON.

Messrs. LAIRD BROTHERS, *Birkenhead.*

Her Majesty's Foreign Office to Laird Brothers.

FOREIGN OFFICE, *December 11, 1863.*

GENTLEMEN: I am directed by Earl Russell to acknowledge the receipt of your letter of the 7th instant, which was only received at this office on the 10th; and I am to inform you that your letter has been referred to the treasury, for such directions as that department may think proper to give.

I am, gentlemen, your most obedient servant,

E. HAMMOND.

Messrs. LAIRD BROTHERS,
Iron Works, Birkenhead.

The Admiralty to Laird Brothers.

[In replying, quote the following initial letter M.]

ADMIRALTY, *December 12, 1863.*

GENTLEMEN: I have received and laid before my lords commissioners of the admiralty your letter of the 7th instant, calling attention to the present condition of the two steam vessels, *El Tousson* and *El Monnassir*, and as to the preservation of the property on board from injury, &c.

I am, gentlemen, your most obedient servant,

C. PAGET.

Messrs. LAIRD & Co., *Birkenhead.*

Her Majesty's Treasury to Laird Brothers.

18,046 }
17,571 } $\frac{18}{17}$.

TREASURY CHAMBERS, *December 18, 1863.*

GENTLEMEN: With further reference to your letter of the 7th instant, respecting the present condition of the two steam vessels, *El Tousson* and *El Monnassir*, I am desired by the lords commissioners of her Majesty's treasury to acquaint you that it is the intention of her Majesty's government that the existing insurances on these vessels should be kept up or renewed, *ad interim*, at the cost of the public, and in the name of some person on her Majesty's behalf, who, if you will agree to repay the cost of such insurance, in the event of the property in the vessels being hereafter adjudged to you, may be constituted a trustee of the policies for her Majesty, or for such person or persons as may hereafter be adjudged to be the owner or owners of the vessels, according to the result of the proceedings which may be taken for the purpose of deciding on the validity of the seizures.

As regards the precautions to be taken for preserving the vessels from injury by weather, my lords are satisfied that every possible precaution has been already taken, and will continue to be taken, by the naval officer in command at Liverpool, and that no deterioration of any kind need be anticipated.

I am, gentlemen, your obedient servant,

GEO. A. HAMILTON.

Messrs. LAIRD BROTHERS, *Birkenhead.*

Laird Brothers to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,
Birkenhead, December 21, 1863.

SIR: We beg to acknowledge the receipt of your letter of the 18th instant, and hope to send a reply to-morrow.

We are, sir, your obedient servants,

LAIRD BROTHERS.

G. A. HAMILTON, Esq.

Laird Brothers to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,
Birkenhead, December 22, 1863.

SIR: We have the honor to acknowledge the receipt of your letter of the 18th instant, stating that it is the intention of her Majesty's government to keep up and renew, *ad interim*, the insurances of the *El Tousson* and *El Monnassir*, at the cost of the public, provided we will agree to repay the cost of such insurances, in the event of the property in the vessel being hereafter adjudged to us, according to the result of the proceedings which may be taken for the purpose of deciding on the validity of the seizures.

In reply, we beg respectfully to submit to you that the condition we are asked to agree to is not reasonable.

For, not only do the vessels incur marine risk by being exposed in the estuary of the Mersey, which risk would not have arisen if the vessels had remained in the docks, but the time has expired during which they would have been in our possession at all.

If they had remained in dock no marine insurance would have been necessary, and if they had not been seized, they would ere this have been delivered to the purchasers.

Under these circumstances we respectfully submit that the vessels should be insured, and kept insured, at the public cost, without any such condition being imposed on us.

We beg to inform you that another policy against fire for £20,500 expires on the 24th instant.

We are, sir, your obedient servants,

LAIRD BROTHERS.

The SECRETARY TO THE TREASURY.

P. S.—Since writing the above, we find that two further policies against fire—one for £14,000, and another for £5,000—also expire on the 24th instant.

LAIRD BROTHERS.

Laird Brothers to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,
Birkenhead, December 30, 1863.

SIR: We beg respectfully to draw your attention to our letter of the 22d instant, respecting the insurance on the *El Tousson* and *El Monnassir*, and to request an early reply.

We are, sir, your obedient servants,

LAIRD BROTHERS.

The SECRETARY TO THE TREASURY.

Laird Brothers to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,
Birkenhead, January 9, 1864.

SIR: We wrote to you on the 30th December, drawing attention to our letter of 22d December, respecting the insurance on the *El Tousson* and *El Monnassir*, and asking a reply thereto.

As we have not yet received any communication on the subject, we would again respectfully ask an early reply.

We are, sir, your obedient servants,

LAIRD BROTHERS.

THE SECRETARY TO THE TREASURY.

Laird Brothers to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,
Birkenhead, January 12, 1864.

SIR: From communications which have passed between our solicitors and those of the government, in the case of the *El Tousson* and *El Monnassir*, it would appear that the trial may not come on for a considerable time, and consequently the vessels will have to remain in their present exposed position, unless some other arrangement can be made with the government.

Were the vessels finished, there would be much less risk of their receiving damage than in their present unfinished and unprotected state.

We therefore think it desirable to make the following proposals to the government, namely: That the vessels should be moved into the Birkenhead public docks, and placed at the top end of the great float, about a mile from the entrance, the government retaining possession by an armed force, or otherwise, as they may think requisite, so that we may be able to complete our contract, which we are desirous of doing, although the value of the additional fittings we should put on board will be very considerable.

In the event of the government proving their right to retain the vessels, they will, if our proposal be agreed to, be in a much more perfect state. On the other hand, should the government not succeed, the vessels will be sooner ready for delivery by us to the owners, and consequently any claim for damages against the government will be reduced.

These proposals are made without prejudice to any legal proceedings Messrs. A. Bravay & Co., or ourselves, may be advised to take for obtaining compensation in this matter, and, being advantageous to her Majesty's government, we hope they will accede to them.

We desire further to add, that we have no hesitation in saying these vessels will be much more secure in the great float than they now are in the river Mersey; and, in support of this opinion, we enclose a plan showing where the vessels are at present moored, and where we purpose to have them placed.

We are, sir, your most obedient servants,

LAIRD BROTHERS.

THE SECRETARY TO THE TREASURY.

The plan enclosed indicates the various positions of the vessels *El Tousson* and *El Monnassir*, as follows:

1. Situation in the Birkenhead dock, where *El Tousson* was lying when seized.

2. Messrs. Laird Brothers' dock, where the *El Monnassir* was lying when seized.

3. Present position of *El Tousson* and *El Monnassir*, in river Mersey.

4. Situation in Birkenhead public dock, where it is proposed, by Laird Brothers' letter of 12th January, to place the vessels for completion.

Her Majesty's Treasury to Laird Brothers.

5704³.

TREASURY CHAMBERS, *January 14, 1864.*

GENTLEMEN: In reply to your letter of the 12th instant, proposing that the *El Tousson* and *El Monnassir* should be placed in the Birkenhead docks, and there completed, I am commanded by the lords commissioners of her Majesty's treasury to inform you that their lordships regret that they are unable to comply with your request.

I am, gentlemen, your obedient servant,

GEO. A. HAMILTON.

Messrs. LAIRD & Co., *Birkenhead.*

Her Majesty's Treasury to Laird Brothers.

209 }
464 } 20

TREASURY CHAMBERS, *January 20, 1864.*

GENTLEMEN: In reply to your letter of the 9th instant, and previous letters, I am commanded, by the lords commissioners of her Majesty's treasury, to acquaint you that their lordships will provide, in the manner they may consider requisite, against the risks from fire and other damages to the iron-clad vessels *El Tousson* and *El Monnassir*, while they remain in possession of her Majesty's government.

I am, gentlemen, your obedient servant,

GEO. A. HAMILTON.

Messrs. LAIRD, *Birkenhead Iron Works, Birkenhead.*

Laird Brothers to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,
Birkenhead, January 25, 1864.

SIR: We have the honor to acknowledge the receipt of your letter of the 14th instant, refusing us permission to finish the ships *El Tousson* and *El Monnassir*; and also of your letter of the 20th instant, stating that the lords of the treasury will provide in the manner they may consider requisite against the risks of fire and other damage.

If this decision about completing the ships be adhered to, we shall be prevented for an indefinite period from completing our contract, and, consequently, be kept out of a very large sum of money, which will be due to us, and which the owners are ready to pay to us as soon as the vessels are so completed and delivered to them in the port of Liverpool.

As stated in our former letter, we are perfectly satisfied that the government should retain possession by an armed force, or otherwise, as they may think requisite, until the legal proceedings now pending are terminated, or some other settlement of the question arrived at.

Taking all these circumstances into consideration, we trust that their lordships may see reason to alter their decision, and agree to the proposal contained in our letter of the 12th instant.

In the mean time, we beg to call the attention of the lords of the treasury to the fact that, though it is now several months since the vessels were seized, yet no steps have as yet been taken to bring the matter to a legal decision, although our attorneys have repeatedly pressed this course on the law advisers of the crown.

We are, sir, your obedient servants,

LAIRD BROTHERS.

The SECRETARY TO THE TREASURY.

Her Majesty's Treasury to Laird Brothers.

TREASURY CHAMBERS, *February 2, 1864.*

GENTLEMEN: In reply to your further letter of 25th ultimo, I am desired by the lords commissioners of her Majesty's treasury to acquaint you that her Majesty's government cannot permit the iron-clad vessels built in your yard, and now under seizure, to be completed.

I am, gentlemen, your obedient servant,

GEO. A. HAMILTON.

Messrs. LAIRD BROTHERS,
Birkenhead Iron Works, Birkenhead.

Laird Brothers to her Majesty's Treasury.

BIRKENHEAD IRON WORKS,
Birkenhead, February 3, 1864.

SIR: We are in receipt of your letter of the 2d instant, in which you inform us that her Majesty's government cannot permit the iron-clad vessels built in our yard, and now under seizure, to be completed. We beg, however, to call your attention to the fact that no information has yet been afforded to us in reply to our repeated requests to know when the legal proceedings in the court of exchequer will be brought to trial before a jury.

We are informed by our legal advisers that they have repeatedly pressed this matter on the attention of the law officers of the crown, but are unable to obtain any satisfactory information, although the case might have been brought to trial in November last, or in January last. We therefore feel ourselves entitled to urge upon her Majesty's government the propriety of their at once informing us as to the time when they purpose to bring this matter to trial.

It must be apparent that this continued delay in bringing the matter to a legal issue is an act of injustice to ourselves and to the owners of the ships.

We are, sir, your obedient servants,

LAIRD BROTHERS.

The SECRETARY TO THE TREASURY.

Her Majesty's Treasury to Laird Brothers.

[Immediate.]

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TREASURY CHAMBERS, *February 8, 1864.*

GENTLEMEN: In reply to your letter of 3d instant, I am commanded by the lords commissioners of her Majesty's treasury to acquaint you that they are in-

formed that an "information" in the case of the iron-clad vessels built by you, and now under seizure by her Majesty's government, will be filed in a few days, and that it may be necessary to send a commission aboard for the purpose of collecting evidence.

I am, gentlemen, your obedient servant,

G. A. HAMILTON.

MESSRS. LAIRD BROTHERS,
Birkenhead Iron Works, Birkenhead.

Correspondence between officers of her Majesty's customs and Captain Inglefield, R. N., and Messrs. Laird Brothers, respecting the iron-clad vessels building at Birkenhead.

Assistant collector of her Majesty's customs, Liverpool, to Laird Brothers.

CUSTOM-HOUSE, LIVERPOOL,
October 8, 1863.

GENTLEMEN: Pursuant to the instructions I have received, I beg to transmit you the enclosed letter from the lords commissioners of her Majesty's treasury, and to inform you that I have been directed to place a customs officer on board the iron-clad vessel, now nearest completion, in the great float, Birkenhead, and that he has directions to seize her in case any attempt be made to remove her from where she is at present.

I am, gentlemen, your obedient servant,

W. G. STEWART,
Assistant Collector.

MESSRS. LAIRD & CO.,
Birkenhead.

Laird Brothers to assistant collector of her Majesty's customs, Liverpool.

BIRKENHEAD IRON WORKS,
Birkenhead, October 8, 1863.

SIR: We beg to acknowledge receipt of your letter of this date, informing us that you have been directed to place an officer on board the iron-clad vessel now nearest completion, in the great float, Birkenhead, and that he has directions to seize her in case any attempt be made to remove her from where she is at present.

We have given Mr. Morgan, the surveyor of customs, an order of admission to the iron-clad (which is named the *El Tousson*) now lying in the Birkenhead float, which order he will show to our watchman or ship-keeper when going on board.

We are, respectfully, your obedient servants,

LAIRD BROTHERS.

W. G. STEWART, Esq.,
Assistant Collector of her Majesty's Customs, Liverpool.

Laird Brothers to assistant collector of her Majesty's customs, Liverpool.

[Private—further reply.]

BIRKENHEAD IRON WORKS,
Birkenhead, October 8, 1863.

DEAR SIR: You have made a slight deviation in the wording of your letter of

this date from that of the letter you sent over to us from the treasury. You say, "has directions to seize her in case any attempt be made to remove her *from where she is at present.*"

The letter from the treasury speaks of the "*dock or float* where she is at present."

Now, it is clear that the harbor-master has power to move the berths of vessels in the dock as may best suit the working of the dock; and although we have requested Captain Hookey to give us as long a notice of his intentions to move the El Tousson as he can consistently with the working of the dock, yet we feel that this notice may be given at a time when we cannot inform you of it, as it may be out of office hours.

We therefore suggest that the instructions should only apply (as we understand the treasury letter to be) in the event of an attempt being made to remove the vessel from the dock or float, and not to the mere moving of the ship under the orders and direction of the harbor-master.

We think that Mr. Morgan understands this, but feel that in a matter of this importance it is right to let you understand clearly what we consider we have been called upon to do by your letter and the letter from the treasury.

We are, sir, your obedient servants,

LAIRD BROTHERS.

W. G. STEWART, Esq.

Assistant collector of her Majesty's customs, Liverpool, to Laird Brothers.

CUSTOM-HOUSE, LIVERPOOL,
October 8, 1863.

GENTLEMEN: I beg to acknowledge the receipt of your letter of this day's date, stating that you had given to Mr. Morgan, surveyor, an order of admission to the iron-clad El Tousson, and beg to thank you for the facility afforded by you to the officers of customs at all times.

I am, gentlemen, your obedient servant,

W. G. STEWART,
Assistant Collector.

Messrs. LAIRD BROTHERS.

Assistant collector of her Majesty's customs, Liverpool, to Laird Brothers.

[Private.]

CUSTOMS, LIVERPOOL,
October 9, 1863.

GENTLEMEN: I have received your private note of yesterday, and regret that you should have the trouble of writing on the subject.

In speaking of the place where the iron-clad is at present, I meant merely to speak of the dock or float where she is at present, and which I used as synonymous with these terms.

I am, gentlemen, your obedient servant,

W. G. STEWART,
Assistant Collector.

Messrs. LAIRD BROTHERS.

E. Morgan, surveyor, her Majesty's customs, Liverpool, to Laird Brothers.

CUSTOMS, LIVERPOOL,
October 9, 1863.

GENTLEMEN: I hereby beg to give you notice that I have this day seized the iron-plated cupola vessel now lying in the dock attached to your premises, by order of the commissioners of customs.

Respectfully,

E. MORGAN, *Surveyor*.

Messrs. LAIRD.

E. Morgan, surveyor, her Majesty's customs, Liverpool, to Laird Brothers.

SURVEYOR'S OFFICE, CUSTOMS,
October, 9, 1863.

GENTLEMEN: I hereby beg to give you notice that, by directions of the honorable commissioners of customs, I have this day seized the iron-clad vessel now lying in the great float, Birkenhead.

Respectfully,

EDWARD MORGAN, *Surveyor*.

Messrs. LAIRD.

Laird Brothers to Captain Inglefield, R. N., H. M. S. Majestic.

BIRKENHEAD IRON WORKS,
Birkenhead, October 12, 1863.

SIR: Understanding from you that you have received instructions from her Majesty's government to take such precautions as you may deem necessary to prevent the iron-clad El Monnassir (now being completed in our graving dock) from being forcibly taken away without our consent, and consequently nullifying the engagement which exists between us and her Majesty's government in respect to this vessel, and as the vessel cannot be removed from our graving dock without lifting the caisson at the entrance, and thus affording free egress to the river, we hereby engage to give you reasonable notice of our intention to lift the caisson for the purposes of working our dock, so that you may take such steps as you may think necessary to protect our property against the attempt which her Majesty's government apprehend.

We are, respectfully, sir, your obedient servants,

LAIRD BROTHERS.

Capt. INGLEFIELD, R. N.

Captain Inglefield, R. N., H. M. S. Majestic, to Laird Brothers.

HER MAJESTY'S STEAMER MAJESTIC,
Rock Ferry, October 14, 1863.

GENTLEMEN: I beg to acknowledge the receipt of your letter of yesterday, engaging to give me reasonable notice of your intention to lift the caisson of the graving dock in which the iron-clad vessel El Monnassir is now being completed, and in reference to our conversation yesterday regarding the possibility of any of your work-people being induced to open the sluices without your cognizance,

and by which, in one tide, the caisson might be floated out of its present position, and the iron vessel thereby be withdrawn into the river. I consider that your proposal that the keys whereby these sluices are worked should be removed from the place they are at present kept to another of greater security, under your personal care, is deserving of my thanks, and is again suggestive of the good faith which has marked your transactions with me in this unpleasant matter. Allow me to take this opportunity of assuring you that, as far as I have been informed, such has never been doubted by those authorities who, for other reasons, have considered it necessary to place your iron-clad vessels under the surveillance of the customs. I have only further to request that you will let me be informed of your intention to open your graving dock at least twenty-four hours before the time proposed to float the caisson, and thus admit of my making, by a personal interview, an arrangement for the security of your vessel.

Further, having a specific duty to perform, I beg you will not misunderstand me or imagine that I am actuated by a want of confidence in your assurances, should I find that at a later period it becomes my duty to absolve you from your present engagements to me, and take such other precautions as the then progress of the iron-clad vessel toward completion would justify. In the meantime I am satisfied that the present arrangements are sufficient, and (as you expressed to me) doubtless more convenient to yourselves than placing a party of men as a guard upon your premises.

I am, gentlemen, your obedient servant,

E. A. INGLEFIELD, *Captain.*

Loird Brothers to Captain Inglefield, R. N., H. M. S. Majestic.

BIRKENHEAD WORKS,
Birkenhead, October 14, 1863.

SIR: We beg to acknowledge the receipt of your letter of this date, in which you state—

That you have received our letter of the 12th instant, in which we engage, for the reasons enumerated therein, to give you reasonable notice of our intention to lift the caisson for the purpose of working our dock, so that you may take such steps as you may think necessary to protect our property against the forcible abduction which her Majesty's government apprehends.

And further, that you understood from the conversation that we had yesterday regarding the possibility of our people being induced to open the sluices without our cognizance, and by which, in one tide the caisson might be floated out of its present position, and the iron vessel thereby withdrawn into the river, that we undertook that the keys whereby the sluices are worked should be removed from the place in which they are at present kept to another of greater security, under our personal care.

We beg to inform you that we are quite prepared to confirm the engagement given in our letter of the 12th; but you are under a misapprehension in supposing that we undertook that the keys whereby the sluices are worked should be removed from the place where they are at present kept to another of greater security, under our personal care. As we are not prepared to remove the keys of the sluices from under the care of the superintendent of our docks, in whose good faith and discretion we have implicit reliance, we have given him special instructions to place the keys in a place of security, under lock and key, which we know he has done.

With regard to the latter part of your letter, we offer no opinion as to the necessity, or otherwise of the proceedings which her Majesty's government have

taken, or may think fit to take, in relation to this vessel, nor do we admit that the engagement given by us is intended as an admission on our part that our arrangement for carrying out these proceedings is more convenient than another; but we undertake that we will give you reasonable notice of our lifting the caisson, through which alone egress can be had to the river, so that you may take such steps as you may think necessary to protect our property against the attempt which her Majesty's government apprehends. And as you have informed us that you think at least twenty-four hours' notice is necessary to admit of your making, by a personal interview, an arrangement for the security of our vessel, we will endeavor to give you not less than this length of notice.

We are, sir, your obedient servant,

LAIRD BROTHERS.

Captain INGLEFIELD, R. N.,
H. M. S. Majestic.

Laird Brothers to Captain Inglefield, R. N., H. M. S. Majestic.

BIRKENHEAD IRON WORKS,
Birkenhead, October 19, 1863.

SIR: Referring to our letter of the 14th instant, we beg to inform you that we intend to open our dock, in which *El Monnassir* now lies, on Thursday morning next, at about 7 o'clock, and also on Saturday morning, at about 9 o'clock.

On Thursday the *El Monnassir* will not be moved out of dock, but on Saturday she will be taken outside the gates to allow the Holyhead steamer *Alexandra* to pass out; after which she will be hauled into dock again, and the caisson will be immediately put into its place.

We are, sir, your obedient servant,

LAIRD BROTHERS.

Captain INGLEFIELD, R. N.,
H. M. S. Majestic.

NOTE.—We shall be glad to have an acknowledgment of the receipt of this as soon as convenient.

LAIRD BROTHERS.

Captain Inglefield, R. N., H. M. S. Majestic, to Laird Brothers.

HER MAJESTY'S STEAMER MAJESTIC,
Rock Ferry, October 20, 1863.

GENTLEMEN: I beg to acknowledge the receipt of your letter of the 19th instant, informing me that you intend opening the dock in which *El Monnassir* is now lying on Thursday morning next, about seven o'clock, and also on Saturday, about nine o'clock.

I am, gentlemen, your obedient servant,

E. A. INGLEFIELD, *Captain.*

Messrs. LAIRD, *Birkenhead.*

Laird Brothers to Captain Inglefield, H. M. S. Majestic.

BIRKENHEAD IRON WORKS,
Birkenhead, October 22, 1863.

SIR: With reference to your letter of the 19th instant, as we were unable to get a ship lying in our No. 1 dock floated to-day, for the purpose of removing

her to our No. 4 dock—the one in which the *El Monnassir* is lying—we shall be under the necessity of opening this dock again to-morrow morning.

We are, sir, your obedient servants,

LAIRD BROTHERS.

Captain INGLEFIELD,

H. M. S. Majestic.

Please to acknowledge receipt of this per bearer. We regret having to give rather a shorter notice than you named to us, but we think it will be sufficient.

LAIRD BROTHERS.

Laird Brothers to Captain Inglefield, H. M. S. Majestic.

BIRKENHEAD IRON WORKS,

Birkenhead, October 24, 1863.

SIR: Owing to the dense fog, we were unable to open our dock this morning, but intend to do so on Monday morning.

Be so good as to acknowledge receipt of this intimation.

We are, sir, your obedient servants,

LAIRD BROTHERS.

Captain INGLEFIELD, R. N.,

H. M. S. Majestic.

Captain Inglefield, H. M. S. Majestic, to Laird Brothers.

HER MAJESTY'S STEAMER MAJESTIC, ' "

Rock Ferry, October, 26, 1863.

GENTLEMEN: I have to acknowledge your letter of the 24th instant, acquainting me that you propose to open your graving dock to-morrow morning.

I am, gentlemen, your obedient servant,

E. A. INGLEFIELD, *Captain.*

CUSTOM-HOUSE, *October 28, 1863.*

DEAR SIR: We have received instructions to transmit to Mr. Bravay a notice of seizure similar to that which was handed to you yesterday.

Will you be so to good as send per bearer the address of that gentleman.

Your obedient servant,

E. MORGAN, *Surveyor.*

Messrs. LAIRD BROTHERS.

BIRKENHEAD IRON WORKS,

Birkenhead, October 28, 1863.

DEAR SIR: In reply to your note of this day, asking for Mr. Bravay's address, it is as follows: Messrs. A. Bravay & Co., 6 Rue de Londres, Paris.

Your obedient servant,

LAIRD BROTHERS.

Mr. MORGAN.

Captain Inglefield, H. M. S. Majestic, to Laird Brothers.

HER MAJESTY'S STEAMER MAJESTIC,
Rock Ferry, October 28, 1863.

GENTLEMEN: I beg to acquaint you that I have received from the lords commissioners of the admiralty a letter of which the following is an extract: "Desiring that full possession should be immediately taken of the two iron-clads now under seizure at Birkenhead, that Messrs. Lairds' workmen should be immediately removed from them, and that the vessels themselves should be removed into the Mersey and stationed where you may determine, with a sufficient guard placed on board of them."

I have, therefore, to request you will deliver the vessels in question to my custody upon my sending an officer and party to take charge of them.

I am, gentlemen, your obedient servant,

E. A. INGLEFIELD, *Captain.*

Messrs. LAIRD, *Birkenhead.*

Laird Brothers to Captain Inglefield, H. M. S. Majestic.

BIRKENHEAD IRON WORKS,
Birkenhead, October 28, 1863.

SIR: Referring to the conversation you had with our Mr. John Laird, jun., this morning, and the request you made to us for assistance in preparing the El Monnassir for removal from our graving dock, we shall feel obliged if you will put your request in writing, and we will then give it our best consideration.

We are, sir, your obedient servants,

LAIRD BROTHERS.

Captain INGLEFIELD, R. N.,
H. M. S. Majestic.

Captain Inglefield, H. M. S. Majestic, to Laird Brothers.

HER MAJESTY'S STEAMER MAJESTIC,
Rock Ferry, October 28, 1863.

GENTLEMEN: With reference to your letter of this date, requesting that I will put in writing the verbal application I made to you this afternoon for assistance in preparing the El Monnassir for removal from your graving dock, I beg now to renew the application, and request that you will give me such assistance by the loan of an anchor and cable, being essential to enable me to moor that vessel in safety in the Sloyne.

I have further to add, that such anchor and cable will be accepted as a personal loan. And I undertake that it shall not be considered as a part of the seizure of the aforesaid iron-clad vessel El Monnassir.

I am, gentlemen, your obedient servant,

E. A. INGLEFIELD, *Captain.*

Messrs. LAIRD, *Birkenhead.*

Laird Brothers to Captain Inglefield, H. M. S. Majestic.

BIRKENHEAD IRON WORKS,
Birkenhead, October 29, 1863.

SIR: We have the honor to acknowledge the receipt of your letter of the 28th instant, informing us that you have received from the lords commissioners of the admiralty a letter, of which the following is an extract:

"Desiring that full possession should be immediately taken of the two iron-clads now under seizure at Birkenhead, that Messrs. Lairds' workmen should be immediately removed from them, and that the vessels themselves should be removed into the Mersey and stationed where you may determine, with a sufficient guard placed on board of them;" and that you therefore request that we will deliver the vessels in question to your custody upon your sending an officer and party to take charge of them.

We beg formally to protest against the illegal and unconstitutional seizure of these ships.

We shall, of course, offer no obstruction to the physical force with which we are threatened by the government. At the same time we protest against the probable destruction of our property in having ships, one of which is a mere hulk, without masts, funnel, or steering gear, taken out of the docks, where they are now in a place of safety, and moored in the river Mersey at this inclement season of the year; and we trust that the government will reconsider orders they have given you on this point.

We are, sir, your obedient servants,

LAIRD BROTHERS.

Captain INGLEFIELD, R. N.,
H. M. S. Majestic.

Laird Brothers to Captain Inglefield, H. M. S. Majestic.

BIRKENHEAD IRON WORKS,
Birkenhead, October 29, 1863.

SIR: We have the honor to acknowledge the receipt of your communication of the 28th instant, requesting us to render you assistance in preparing the *El Monnassir* for removal from our graving dock, and, further, to grant the loan of an anchor and cable, which are essential to enable you to moor the vessel with safety in the Sloyne.

We have every desire to render you, personally, any assistance in our power in carrying out the illegal and unpleasant duty imposed upon you, but having given the matter very serious consideration, and regarding the responsibility we are under to the owners of those vessels, we greatly regret that we cannot, in justice either to them or to ourselves, do anything to relieve her Majesty's government from the responsibility they are under to us and to the owners in attempting to remove from our graving dock into the Mersey a vessel in the helpless condition of the *El Monnassir*.

You are aware that in order to remove the *El Monnassir* it will be necessary to remove the caisson. This is an operation requiring some skill, and, in order to prevent injury to the caisson, we shall instruct our foreman to remove it on the day when you intend to remove our vessel.

We renew our protest to you at the illegal and extraordinary conduct of the government in this matter.

We are, sir, your obedient servants,

LAIRD BROTHERS.

Captain INGLEFIELD, R. N.,
H. M. S. Majestic.

Captain Inglefield, to Laird Brothers.

HER MAJESTY'S STEAMER MAJESTIC,
Rock Ferry, October 28, 1863.

GENTLEMEN: At 10 o'clock to-morrow morning I shall send a lieutenant, the chief engineer, boatswain, and carpenter, to make a survey and inventory of the furniture and fittings of the *El Tousson*. I hope this will suit your convenience.

I am, gentlemen, your obedient servant,

E. A. INGLEFIELD, *Captain.*

Messrs. LAIRD, *Birkenhead.*

Captain Inglefield, H. M. S. Majestic to Laird Brothers.

HER MAJESTY'S STEAMER MAJESTIC,
Rock Ferry, October 30, 1863.

GENTLEMEN: I have taken the advice of Mr. Bond, the pilot, upon the subject of moving the *El Monnassir*, and he states that it would be most imprudent to attempt to move that vessel into the river without a second anchor on board, unless she could be put to a buoy, and it will not be earlier than Monday that I can obtain the use of the latter. I am obliged, therefore, to postpone taking that vessel out of your graving dock to-morrow, as I cannot get an anchor on board in time.

I can only add, that if this should cause you any inconvenience I am really much concerned.

And always yours, respectfully,

E. A. INGLEFIELD, *Captain.*

Messrs. LAIRD, *Birkenhead.*

Laird Brothers to Captain Inglefield, H. M. S. Majestic.

BIRKENHEAD IRON WORKS,
Birkenhead, October 31, 1863.

SIR: We beg to acknowledge receipt of your letter of the 30th instant, informing us that you have taken the advice of Mr. Bond, the pilot, upon the subject of moving the *El Monnassir*, and that he states that it would be most imprudent to attempt to move that vessel into the river without a second anchor on board, unless she could be put to a buoy; that it will not be earlier than Monday that you can obtain the use of the latter; and that you are therefore obliged to postpone taking that vessel out of our graving dock to-morrow, as you cannot get an anchor on board in time.

In reply, we beg to state that, owing to the lowness of the neap tides during the next week, we cannot with safety float the caisson at the entrance of the dock, and therefore must decline doing so.

We are, sir, your obedient servants,

LAIRD BROTHERS.

Captain INGLEFIELD, R. N.,
H. M. S. Majestic.

Captain Inglefield, H. M. S. Majestic, to Laird Brothers.

HER MAJESTY'S STEAMER MAJESTIC,
Rock Ferry, November 3, 1863.

GENTLEMEN: Obedient to instructions I have received from the lords commissioners of the admiralty, I have removed the *El Tousson* from the great float, and moored her near my ship. It, however, became necessary to pay the dock dues that the ship might be cleared; and as you expressed to me, when I spoke to you myself on the subject, that you did not intend to pay them, I have deposited the sum of £150 with the dock committee under protest, and now renew my request that you will pay these dues, so that I may be refunded the amount deposited.

I am, gentlemen, your obedient servant.

E. A. INGLEFIELD, *Captain.*

Messrs. LAIRD, *Birkenhead.*

Mr. Adams to Mr. Seward.

No. 634.]

LEGATION OF THE UNITED STATES,
London, April 1, 1864.

SIR: I have to acknowledge the reception of despatches from the department numbered from 869 to 876, inclusive.

I have not yet been able to see Lord Russell on the subjects already referred to in my No. 632, which went in the extra bag despatched on Tuesday. He has given me an appointment for to-morrow, at 2 o'clock. For the reasons already fully stated, however, I have no great expectation of success just now in any movements I may attempt in the direction indicated. The next month or two will probably be absorbed in the struggle for power, involving, perhaps, a final appeal to the country.

I do not now see how a ministry of either side can conduct any but the most negative policy on the uncertain support that is to be expected from the present House of Commons.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington. D. C.

Mr. Adams to Mr. Seward.

No. 635.]

LEGATION OF THE UNITED STATES,
LONDON, April 1, 1864.

SIR: In connexion with my despatch No. 628, of 23d of March, I now transmit a copy of Lord Russell's note of the 26th, in reply to my representation about the *Amphion*.

This vessel was about to leave the docks yesterday, on what is called a trial trip. She remains in all respects what she was when sold, a war ship, and suitable for little else. To fit her for sea, however, will yet take some time. The impression is general among the people in the neighborhood, who watch

her movements, that she is preparing for the use of the rebels, but I have not yet been able to secure any evidence of a character that will weigh with this government.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

Lord Russell to Mr. Adams.

FOREIGN OFFICE, *March 26, 1864.*

SIR: With reference to my letter of the 18th instant, I have the honor to state to you that it appears, from further inquiries which her Majesty's government have instituted with regard to the *Amphion*, that that vessel is being actively fitted out for sea; but her Majesty's government are advised that, whatever may be the nature of the "fitting out" now going on, there is nothing to show that it is in violation of the foreign enlistment act, and that under these circumstances no case appears to be made out for their interference with regard to this vessel.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 639.]

LEGATION OF THE UNITED STATES,

LONDON, *April 1, 1864.*

SIR: I have the honor to forward herewith copies of parliamentary papers on North America, Nos. 7, 8, and 9, 1864. These relate to the alleged enlistments at Queenstown on board the *Kearsarge*, the pretended recruitments in Ireland for the United States army, and the case of piracy on board the steamer *Chesapeake*.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

Correspondence respecting the enlistment of British seamen at Queenstown on board the United States ship-of-war Kearsarge.

No. 1.

Mr. Arbuthnot to Mr. Hammond.—(Received November 20.)

TREASURY CHAMBERS, *November 21, 1863.*

SIR: I am commanded by the lords commissioners of her Majesty's treasury to transmit to you, for the information of Earl Russell, the enclosed copy of a letter from the commissioners of customs relating to a report that the United

States war sloop Kearsarge had taken on board British subjects at Queenstown, and I am to state that my lords would be glad to be informed whether, in his lordship's opinion, any further steps should be taken in the matter.

I have, &c.,

G. ARBUTHNOT.

[Enclosure 1 in No. 1.]

Mr. Gardner to Mr. Hamilton.

CUSTOM-HOUSE, November 19, 1863.

SIR: I am directed to acquaint you, for the information of the lords commissioners of her Majesty's treasury, that a rumor having reached the collector of this revenue at Cork that the United States war sloop Kearsarge, which put into that port on the 2d instant, had taken on board and proceeded to sea with several men, being British subjects, from the neighborhood of Queenstown, he caused inquiry to be made, with a view of ascertaining whether any infringement of the provisions of the foreign enlistment act had taken place. The person from whom the rumor emanated was a person named Samuel Dunn, a pensioner, residing at Ringaskiddy. Upon being questioned by the collector, Dunn stated that James Haley, a native of Ringaskiddy, and who lived at that place about twenty years ago, at which time he was in the British service on board of the Shamrock, afterwards joined the American service, and is now an officer on board the Kearsarge. On the recent arrival of that vessel, Haley went on shore at Ringaskiddy to visit his relatives, and while on shore remained at the house of his sister. It is alleged that during his stay there he persuaded the following persons to go to sea in the Kearsarge, but under what agreement no evidence appears: John Sullivan, Edward Pyburne, Thomas Murphy, George Patterson, Dennis Leary, natives of Ringaskiddy.

It is also alleged that Michael Ahern, of Queenstown, joined the said vessel. The five persons first named, who are from 17 to 18 years of age, were taken on board the ship by John Dunn, the son of Samuel Dunn, whose declaration to that effect is enclosed. It does not appear how Michael Ahern (a clerk lately dismissed from the service of Messrs. Scott, of Queenstown) was taken on board. The reports of the officers at Cork and the declaration of John Dunn having been referred to the solicitor of this revenue, he has reported that the circumstance of the men having been put on board and sailed away in a vessel-of-war of the United States affords a strong inference that they have entered into the American war service, but that the proofs are not very strong to support such a case, and there is no person known ashore who has been shown to be concerned in enlisting the men so as to render him amenable to prosecution under the second section of the foreign enlistment act, unless it be John Dunn himself, whose statement is very vague.

He appears, according to his own statement, to have acted as an unpaid volunteer, and does not explain wherefore or by whose instructions he put the men on board.

I am, &c.,

F. G. GARDNER.

[Enclosure 2 in No. 1.]

Declaration of John Dunn.

QUEENSTOWN, November 12, 1863.

I, John Dunn, of Ringaskiddy, do declare that on Wednesday, the 4th day of November, I took on board the American sloop-of-war Kearsarge, in Queens-

town harbor, John Sullivan, Edward Pyburne, Thomas Murphy, and George Patterson, and on Thursday, the 5th of November, Dennis Leary, all of whom lived at Ringaskiddy, none of whom have landed to my knowledge. I got no pay for taking them on board, they being too poor to pay, and I am not aware of any payment made to them on board.

his
JOHN + DUNN.
mark.

Read over to the party in our presence, who witness his mark hereto this 12th of November, 1863, at Queenstown.

J. MOORE, *Surveyor*.
N. SEYMOUR.
P. DUNN.

No. 2.

The Earl of Donoughmore to Earl Russell.—(Received November 26.)

52 SOUTH AUDLEY STREET,
London, November 25, 1863.

MY LORD: I think it right to forward to your lordship the enclosed copy of a letter received this day from the Hon. J. M. Mason, together with copies of the declarations to which it refers.

Believe, &c.,

DONOUGHMORE.

[Enclosure 1 in No. 2.]

Mr. Mason to the Earl of Donoughmore.

16 RUE DE MARIGNAN,
Paris, November 23, 1863.

MY LORD: I have received here the affidavits of which I venture to enclose copies. They were taken, as you will see, at Cork, in Ireland, by the commercial agent of the Confederate States at that place, and clearly prove the enlistment of a number of men into the naval service of the United States on board the federal frigate Kearsarge whilst recently at that port. It is certainly desirable that this offence should be brought to the notice of the government, an office which I am not in a position to perform. I have taken leave, therefore, to send the papers to you, and though without any request, (which I could not take the liberty to make,) yet if you think proper to send them to the foreign office, it would place it in the power of the government to examine into the facts. The original affidavits remain in the possession of Robert Dowling, esq., at Cork or Queenstown.

I have, &c.,

J. M. MASON.

[Enclosure 2 in No. 2.]

Declaration of Patrick Kennedy.

BOROUGH OF CORK, to wit:

By one of her Majesty's justices of the peace for the borough of Cork.

I, Patrick Kennedy, of Queenstown, in the county of Cork, yeoman, do solemnly and sincerely declare that, on Tuesday, the 3d day of November instant, I went on board the American war frigate Kearsarge, then lying in the port of Cork, for the purpose of enlisting in the naval service to which she belonged. Thomas Verling, of Queenstown, and two other men from the light-house, whose names I do not know, were with me; we all went for the same purpose, having previously ascertained that the officers on board were enlisting men. This was widely circulated through Queenstown. When I went on board it was about 2 o'clock, and one of the officers told me I would be taken for landsman. The same officers told a person, whom I believe to be the boatswain's mate, to take me before the doctor; and accordingly I and the three other men were taken before the doctor of the ship, were stripped, even our stockings taken off, and passed his inspection. We left about 4 o'clock, promising to come aboard at 7 o'clock the same evening. I did not go aboard that evening, but returned at about 7 o'clock next morning, and had breakfast, dinner, and supper on board. While aboard next day seven or eight men from Ringaskiddy, all Irishmen, came aboard, and told me they had passed the doctor. These men sailed on board the vessel. I did not, as I, when outside the harbor, as the parties were asleep below, slipped into the boat with the pilot and came home. A boy, of the name of Murphy, from Queenstown, also passed the doctor, and sailed in the vessel, so did all the others, with the exception of Verling; he did not go. There were from 150 to 200 men taken on board, nearly all Irish. I saw Mr. Eastman, the American consul for Queenstown, on board; he was in conversation with some of the officers on board and remained for some time. Mr. Dawson, the agent of the consul, was also on board. I was told twelve dollars a month would be the pay. After we passed the doctor our names were registered. And I make this solemn declaration conscientiously believing the same to be true, and in pursuance of the statute for the abolition of oaths, and the substitution of declarations in lieu thereof.

Made and subscribed before me, at and in the borough of Cork, this 18th day of November, 1863.

PATRICK ^{his} × KENNEDY.
mark.

Truly read by me,

THOMAS H. CROFTS.

FELICE MULLUN,

One of the Justices of the Peace for the borough of Cork.

[Enclosure 3 in No. 2.]

Declaration of Edward Lynch.

BOROUGH OF CORK, to wit:

By one of her Majesty's justices of the peace for the said borough.

I, Edward Lynch, of Queenstown, in the county of Cork, yeoman, do solemnly and sincerely declare that the American war steam-frigate Kearsarge

came into the port of Queenstown, in this county, on the 2d day of November instant, where she anchored, and remained till the 6th day of November following. That it was rumored that she was taking men for the support of the war now going on in America, and I, in company with one Daniel O'Connell, of Whitepoint, and one John Connelly, of Bishop's street, in the town of Queenstown, both in said county, and all Irishmen, went on board said frigate. That I remained on board said war frigate up to the hour of half past 5 o'clock in the afternoon on said day, and got my dinner and supper on board with all the other hands, and that the boatswain of said frigate shipped the said O'Connell and Connelly to serve on board said war frigate, and to proceed to America therein, but objected to me on account of my height. That previously to the shipping of said two men, O'Connell and Connelly, they had to pass inspection of the naval doctor on board, in the usual way in which men enlisting in the navy have to do. That another man whose name I do not know, and also, as I believe, a British subject, who formerly belonged to a merchant ship, and was residing in Queenstown for about three months previously, passed the doctor and was shipped. That two other men who belonged to Ringaskiddy, in this county, were also taken as firemen on board said war frigate, and that it was stated on board that the pay was to be twelve dollars per month. That the captain of said frigate was not on board at the time of these occurrences, but I heard the commander say to the boatswain, "I'll leave them in charge to you now." The boatswain took them with him, and in some time after they, the said O'Connell and Connelly, returned and told me they passed the doctor. O'Connell's mother, now Mrs. Buckley, lives at the back of the chapel at Queenstown. A boatman from the holy ground at Queenstown also came on board, passed the naval doctor in the usual way aforesaid, and was taken into service on board. There were about two hundred hands on board, principally English and Irish. The said war frigate sailed from this port, by the directions of the admiral, now stationed at Queenstown, on Friday, the 6th day of November instant, and it was stated she would first proceed to France, thence to America. The men of whom I have declared sailed on board said war frigate, out of the port of Cork, and I make this solemn declaration conscientiously believing the same to be true, in pursuance of the statute for the abolition of oaths, and the substitution of declarations in lieu thereof.

Made and subscribed before me, in the borough of Cork, this 16th day of November, 1863.

EDWARD ^{his} X LYNCH.
mark.

Truly read by me to the said Edward Lynch,

THOMAS W. CROFTS.

ROBERT HALL,

Justice of the Peace, Borough of Cork.

No. 6.

The Secretary to the Admiralty to Mr. Hammond.—(Received December 9.)

ADMIRALTY, December 9, 1863.

SIR: I am commanded by my lords commissioners of the admiralty to send you herewith, for the information of Earl Russell, a copy of a letter from Rear-Admiral Sir Lewis Jones, dated the 7th instant, relative to fifteen seamen having been landed at Queenstown from the United States sloop-of-war Kearsarge, who stated that they had been shipped at that port.

I am, &c.,

W. G. ROMAINE.

[Enclosure in No. 6.]

Rear-Admiral Sir L. Jones to the Secretary to the Admiralty.

"HASTINGS," QUEENSTOWN,
December 7, 1863.

SIR: I have the honor to report, for their lordships' information, that the United States steam-corvette Kearsarge came off the harbor this morning, and shortly afterward fifteen seamen were landed from her by the Petrel, a schooner pilot-boat, belonging to Messrs. Scott & Co., merchants, of Queenstown.

2. It appears from the statements of these men that they were shipped between the 2d and 5th November last, while the Kearsarge was windbound at this port, and regularly entered as part complement of the ship on arriving at Brest.

3. I would beg to observe that Captain Winslow, of the Kearsarge, was perfectly aware of her Majesty's proclamation and the statute law on that point, as he had a copy of the proclamation in his possession, and I had a conversation with him on the subject, and he stated, to me in the presence of Mr. Eastman, the United States consul, that he did not want any men—he only wanted a clerk.

4. The men now landed are in custody, awaiting the decision of the custom-house authorities in London.

5. I have further to add, that Mr. Eastman, the United States consul, read to me this morning a letter he had received from Captain Winslow, of the Kearsarge, stating that a number of men were found secreted on board the Kearsarge after his leaving Queenstown on the 5th November, and that he would have landed them at Brest, but that doing so would have put them into the hands of the confederate war steamer Florida, and he now sends them on shore at Queens-town.

I have, &c.,

LEWIS JONES.

No. 7.

The Secretary to the Admiralty to Mr. Hammond.—(Received December 10.)

ADMIRALTY, December 10, 1863.

SIR: With reference to my letter of the 9th instant, I am commanded by my lords commissioners of the admiralty to send you herewith, for the information of Earl Russell, a copy of a further letter from Rear-Admiral Sir Lewis Jones, dated the 8th instant, with copies of its enclosures, relating to the men relanded at Queenstown from the United States ship-of-war Kearsarge.

I am, &c.,

W. G. ROMAINE.

[Enclosure 1 in No. 7.]

Rear-Admiral Sir L. Jones to the Secretary to the Admiralty.

"HASTINGS," AT QUEENSTOWN,
December 8, 1863.

SIR: With reference to my letter of yesterday's date, I enclose herewith, for their lordships' information, a copy of the letter from Captain Winslow, of the United States sloop Kearsarge, which Mr. Eastman, the United States consul, read to me yesterday. Also a letter from Captain Winslow to myself, reporting his arrival for the purpose of landing sixteen men, said to have concealed themselves on board the Kearsarge prior to that ship's departure from Queenstown.

on the 5th of November, with copies of the certificates of Captain Winslow and Lieutenant Thornton, executive officer of the Kearsarge, relating to the men in question.

2. Since my letter of yesterday's date I find another man was landed, which makes the number sixteen instead of fifteen.

3. On the United States consul informing me that he intended to go on board the Kearsarge to communicate with Captain Winslow, I requested him to state to that officer that I considered the manner of landing the men in a pilot-boat, without having previously communicated with the authorities of this place, was irregular.

I am, &c.,

LEWIS T. JONES.

[Enclosure 5 in No. 7.]

Lieutenant Commander Thornton to Captain Winslow, United States navy.

"KEARSARGE," OFF CORK HARBOR,
December 7, 1863.

SIR: I beg leave to state, in accordance with your request, that on or about the 3d November, 1863, several men from Queenstown came on board of this ship as applicants for enlistment in the naval service of the United States. In the absence of yourself, and of any definite instructions in regard to such applications, I told the men that if they were physically qualified for enlistment they might remain on board until your return, when you would decide. Upon your return, your instructions were not to enlist them; they were accordingly sent out of the ship.

Many applications of a similar nature were made, but their enlistment was in every case refused in accordance with your instructions.

During the time we were at anchor, the ship was surrounded by boats filled with men desiring to enlist; orders were given and executed not to allow them alongside.

On the evening of the 5th, this was the case until after dark, and until the ship was underway.

The ship went to sea on the evening of the 5th November; it was stormy and blowing hard. In accordance with the usual custom of the ship, and with the necessities of the case, (as I thought,) before tripping the anchor all strangers were ordered out of the ship; the master-of-arms, with the ship's corporal, and others of the police force, executed the order; finding men stowed away in the hold, in the carpenter's locker, and elsewhere, these men were put out of the ship, in some cases by force. As soon as the ship was reported cleared, the anchor was tripped, and the ship went to sea.

On the next day several men were discovered who were strangers in the ship; these men, probably with the connivance of the crew, had been so securely concealed as to elude the vigilance of the police force. Upon receiving this information you decided to land these men at Brest, whither you were bound.

The men were sent out of the ship at Brest in accordance with this determination, but pleading destitution, they returned and were permitted to remain on board until this morning, when they were landed in Queenstown by the pilot-boat Petrel.

I would add, that the names of these men, upon their return to the ship while in Brest harbor, were placed upon the ship's books for the purpose of their support and comfort, they being otherwise utterly destitute.

Very respectfully, &c.,

JAS. S. THORNTON.

No. 8.

*Mr. Hammond to Mr. Waddington.*FOREIGN OFFICE, *December 12, 1863.*

SIR: I am directed by Earl Russell to transmit to you herewith, to be laid before Secretary Sir George Grey, copies of papers, as marked in the margin,* respecting the enlistment at Queenstown of various British subjects to serve on board the United States steam vessel-of-war the Kearsarge.

The law officers are of opinion that the men who so enlisted on board the Kearsarge should be prosecuted under the foreign enlistment act; and Lord Russell directs me to say that he is of opinion that such prosecution should be instituted as soon as sufficient evidence is collected to sustain it.

I am, &c.,

E. HAMMOND.

No. 11.

*Mr. Bruce to Mr. Hammond.—(Received December 16.)*WHITEHALL, *December 16, 1863*

SIR: I have laid before Secretary Sir George Grey your letter of the 12th instant, and its enclosures, respecting the enlistment at Queenstown of British subjects to serve on board the United States steam vessel-of-war the Kearsarge; and I am to acquaint you, for the information of Earl Russell, that the papers have been forwarded to the lord lieutenant of Ireland, in order that his excellency may, if he sees no objection, give the necessary directions for the prosecution of the men so enlisted under the foreign enlistment act, in accordance with the opinion of the law officers of the crown in this country.

I am, &c.

H. A. BRUCE.

No. 12.

*Earl Russell to Mr. Adams.*FOREIGN OFFICE, *December 17, 1863.*

SIR: I have the honor to acknowledge the receipt of your note of the 14th instant, respecting the seamen embarked on board the United States steamer Kearsarge at Queenstown.

I am, &c.,

RUSSELL.

No. 13.

*Mr. Hammond to Mr. Bruce.*FOREIGN OFFICE, *December 17, 1863.*

SIR: With reference to my letter of the 12th instant, I am directed by Earl Russell to transmit to you, to be laid before Secretary Sir George Grey, a

* Nos. 1, 2, 3, 5, 8, and 9.

copy of a further note from Mr. Adams, enclosing a copy of a letter from the captain of the United States steamer Kearsarge respecting the seamen embarked on board that vessel at Queenstown.

I am, &c.,

E. HAMMOND.

Correspondence respecting recruitment in Ireland for the military service of the United States.

No. 1.

Mr. Waddington to Mr. Hammond.—(Received January 20.)

[Extract.]

WHITEHALL, *January 18, 1864.*

I am directed by Secretary Sir George Grey to transmit to you herewith, to be laid before Earl Russell, a copy of a letter which has been received from the Irish government relative to a man named P. H. Finney, who has recently arrived from America, whose object, there is reason to believe, is to enlist men for the American army.

[Enclosure in No. 1]

Sir J. Larcom to Mr Waddington.

[Extract.]

DUBLIN CASTLE, *January 13, 1864.*

As there appears reason to suppose that Finney's object is really to enlist men for the American army, though no proof of it has as yet been received, a strict watch will be kept on his movements.

No. 2.

Mr. Hammond to Mr. Waddington.

FOREIGN OFFICE, *January 22, 1864.*

SIR: I have laid before Earl Russell your letter of the 18th instant, respecting a man named P. H. Finney, who has recently arrived in Ireland from America, for the purpose, as there appears to be some reason to think, of enlisting men for service in the federal army; and I am to request that you will state to Secretary Sir George Grey that Lord Russell would suggest that the home office should consult the law officers of the crown with regard to this matter.

I am, &c.,

E. HAMMOND.

No. 3.

Mr. Waddington to Mr. Hammond.—(Received January 24.)

[Extract.]

WHITEHALL, *January 23, 1864.*

Referring to the correspondence which has taken place respecting American agents employed in procuring emigrants from Ireland, I am directed by Secretary Sir George Grey to transmit to you a copy of a letter, and its enclosures, which have been received through the Irish government from Mr. Lock Perry, inquiring, on behalf of Messrs. Sable & Searle, of Liverpool, whether they can ship passengers in the manner referred to in the enclosed correspondence, and whether they are bound to ship them back.

As Mr. Perry states that the American minister is in communication with her Majesty's government on the subject, his letter is forwarded for the information of Earl Russell previously to returning any answer, and Mr. Perry has been informed that it has been so transmitted.

Reports respecting Finney's proceedings received from the sub-inspector of constabulary at Galway are enclosed herewith.

[Enclosure 1 in No. 3.]

Mr. Perry to Sir J. A. Larcom.

11 BACHELOR'S WALK,
Dublin, January 20, 1864.

SIR: I beg to enclose a copy of a letter received by Messrs. Sable & Searle, of Liverpool, emigration agents, from their agent at Boston, together with copies of a proposed agreement to be entered into with intending emigrants, a letter from Mr. Finney, an agent appointed to bring out emigrants to America, and a copy of a letter from Messrs. Sable & Searle to myself.

I have respectfully to request you will inform me on behalf of my clients, Messrs. Sable & Searle, whether they can follow their legitimate trade of shipping passengers in manner referred to in the correspondence or not, or are they bound to ship them back.

I have been informed by the American consul here that Mr. Adams, the American minister, is in communication with the government in London on the same subject.

I have, &c.,

JEREMIAH PERRY.

[Enclosure 2 in No. 3.]

Messrs. Page, Richardson & Co. to Messrs. Sable & Searle.

LONDON AND LIVERPOOL PACKET OFFICE,
114 *State Street, Boston, December 16, 1863.*

DEAR SIR: We have a good prospect of making sure of a large number of passengers from Ireland to this port and Portland. There are a number of railroad companies and other corporations greatly in want of men to perform labor, and they have agreed with us to be responsible for the passage of a certain number of such able-bodied men as would be willing to work for them.

The bearer of this, Mr. Patrick H. Phinney, it has been thought best to send

out to attend to the matter, and see that none but able-bodied men are taken—men in good health, and who would not be likely to fall sick on their hands. Several hundred men are wanted, and we wish you to give your best efforts to aid Mr. Phinney in his enterprise, as all the passengers will be forwarded through your house. We would suggest that you forward a circular to each one of your agents in Ireland, to the effect that good men are wanted to agree to work for not less than twelve months, and that their passage will be advanced on condition that they bind themselves so to work.

We will be responsible to you (having taken security from the corporations wanting the men) for the passage-money and for the inland ticket to the port of embarkation. If it shall be necessary, you will make such arrangements with Mr. Phinney about issuing tickets as you may see fit.

Yours, &c.,

PAGE, RICHARDSON & CO.

[Enclosure 3 in No. 3.]

Proposed agreement.

We, the undersigned, hereby agree with Patrick H. Phinney, that, in consideration of the said Patrick H. Phinney advancing the money necessary for the payment of our respective passages to Boston, in the United States of America, that we, each of us hereto signing our names, (or making our marks in presence of witnesses,) hereby agree with said P. H. Phinney that we will, on our arrival at Boston aforesaid, commence to labor for said Patrick H. Phinney, or his assigns, either on the Charlestown water-works, in the city of Charlestown, or the Webster and Southbridge railroad, in the employ of Wall & Lynch; or the Boston, Hartford, and Erie railroad, in the employ of E. Crane, in the State of Massachusetts; or on the Pacific railroad, or for the Bear Valley Coal Company, in the employ of George P. Sanger; or for the Franklin Coal Company, in the employ of E. C. Bates, in the State of Pennsylvania.

And we hereby agree that we will, each of us hereto signing as aforesaid, continue to labor and work to our best ability for the said P. H. Phinney, or his assigns, for the term of twelve months from the date of our arrival in said Boston, for and at the rate of — dollars per month, in addition to our board and lodging, which is to be furnished to us by the said P. H. Phinney.

And we each of us hereby agree that we will repay to said P. H. Phinney, or to his assigns, the amount which shall have been paid by the said P. H. Phinney, or his assigns, for each of our passages to Boston as aforesaid, and also those of us who shall have had our inland passages paid for us by the said P. H. Phinney, or any other advances which may have been made to us by the said P. H. Phinney, or that the same shall be deducted from or repaid from our wages first earned as aforesaid, and paid to said P. H. Phinney or his assigns by our employers.

It is understood that the wages aforesaid of each of us will commence within one week after our arrival in Boston, or as soon as we commence to work.

Names.	Where from.	Description.

[Enclosure 4 in No. 3.]

Mr. Finney to Messrs. Sable and Searle.

SIR: Annexed is a copy of the agreement which I purpose having signed by each man whom I will approve of as a fit and proper person to be employed and sent to Boston. I have already left a copy at your office in Liverpool, but which must have escaped from your observation.

Mr. Atkinson called upon Mr. Bates, but he was not at home, and his manager refused to give a pass until he laid the matter before the board. I therefore request that you will write to the company immediately and make the necessary arrangements for the transmission of those men I may select by the different railroads.

On account of this obstacle, as well as some other which has arisen, I will not be able to send any men before the 29th instant; then I will have 150 good men selected to send by the vessel sailing on that date.

I was informed that the agreement between the men and I must be signed in the presence of the United States consul. I therefore called upon him, and he has written to the United States minister, London, (Mr. Adams,) so as to have everything satisfactorily arranged, as he would not like to act in the matter without first having communicated with Mr. Adams.

I think that the presence of either of you here would be very beneficial, (I mean Mr. Sable,) as the necessary arrangements would be much better disposed of, and wish you would come at once, as it would be much better than writing, as you will see the matter requires your presence.

I am, &c.,

P. H. FINNEY.

[Enclosure 5 in No. 3.]

Messrs. Sable and Searle to Mr. Perry.

SABLE AND SEARLE'S AMERICAN PASSENGER OFFICES,
Atlantic Royal Mail Steam Navigation Company, (limited.)
*Passenger Department, 19 Water s., Liverpool, January 18, 1864.**

DEAR SIR: We beg to enclose various documents concerning the engagement and shipping of a number of laborers from Ireland to Boston, United States.

The enclosures are as follows: No. 1, letter received from our Boston correspondents, in whom we placed implicit confidence that they would not engage us in any transaction contrary to law, or involve us or the companies for whom we act in any unpleasant position. No. 2 is a draft contract which Mr. Finney (the selecting agent) intends to make with the laborers before he advances their passage money.

We, as agents for the Galway and Derry lines, are bound to get as many passengers as we can for the respective steamers, and, as both lines carry her Majesty's mails, we do not like to subject them to a sudden seizure or even to detention for a single hour. Therefore we wish you to put this matter before the highest authority at the Castle in your city; so that if, as we are sorry to see frequently is the case, any one evil disposed should give information that the men are intended for enlistment, a prompt and satisfactory denial may be given. Please to ascertain from government whether we can follow our legiti-

* Offices: Dublin, 56 Sackville street; Liverpool, 19 Water street and 13 Regent street; Galway, Eyre square; Londonderry, Foyle street; Queenstown, Quay; New York, 23 Broadway; Boston, Broad street.

mate trade of shipping these passengers or not, or are we bound to ship them back? If there be the slightest risk either to ourselves or the respective companies, we will carry matters further in London and stop in the meanwhile.

There should be no obstacle put in the way of Mr. Finney, as it is a blessing for the poor people to obtain employment, and the authorities should assist him by every means in their power.

Yours, &c.,

SABLE & SEARLE.

[Enclosure 6 in No. 3.]

Report.

GALWAY, January 12, 1864.

I have to report that on this evening a man who gave his name as Mr. Feely, and who put up at a respectable hotel here, stated shortly after his arrival this evening publicly that he was commissioned by a company lately formed in America to employ a number of laborers who should bind themselves to him, and that he would give them a free passage to America, and give them a sum of money in hand; he said that when he arranged as to whether he would convey them by the Atlantic Company boats, or by a vessel which he would charter, that he would proceed to engage them. The man may have given utterance to the foregoing for the purpose of hoaxing the public; however, I think it my duty to report the matter without loss of time. The next vessel which is advertised to sail from here is the *Hibernia*, on the 19th instant.

Steps have been taken to watch the man's movements, which shall be reported in due course.

_____, *Sub Inspector Constabulary.*

[Enclosure 7 in No. 3.]

Report.

GALWAY, January 15, 1864.

With reference to my report of the 12th instant, relative to a person who stated publicly here on that date that he was commissioned to employ a number of laborers to work on railways in America, I have to state that I went to the house of the booking agent of the Atlantic Mail Company, and was informed that Mr. Feely, the person above alluded to, had been with him to arrange as to the conveying of the persons he is about to hire to Boston, and that he had shown him all his papers; he stated that he had been commissioned by two railway companies to hire 1,000 men, and that he had been to Loughrea, his native place, and had shown his papers to the Marquis of Clanricarde, who was quite satisfied with them. Mr. Ennis, the agent, stated that Feely had gone to Liverpool to have an interview with the head agent, and that the laborers were not to be sent by the next vessel which goes to New York, but are to wait for the sailing of the *Adriatic*, which is advertised to leave here for Boston on the 2d proximo. About 120 persons made application at the office to-day and yesterday, and signified their intention of agreeing to the terms offered by Mr. Feely, which is to bind themselves to work on the railway for a certain period, and to repay their employers £1, which is to be advanced together with their passage fare.

_____, *Sub-Inspector, Constabulary.*

No. 4.

*Mr. Hammond to Mr. Waddington.*FOREIGN OFFICE, *January 26, 1864.*

SIR: I am directed by Earl Russell to return to you the papers enclosed in your letter of the 23d instant, respecting the proposed shipment of British subjects to the United States by Messrs. Sable & Searle, and I am to request that you will state to Secretary Sir George Grey that no communication has been made to his lordship on the subject by Mr. Adams.

I am, &c.,

E. HAMMOND.

No. 5.

Mr. Waddington to Mr. Hammond.—(Received February 3.)

[Extract.]

WHITEHALL, *February 2, 1864.*

Referring to the correspondence which has already taken place relating to foreign enlistment, I am directed by Secretary Sir George Grey to transmit to you a newspaper containing a report of the proceedings at the police office, Exchange court.

And I am to request that you will lay the same before Earl Russell, and inform his lordship that the case has been directed by the lord lieutenant to be submitted to the law officers of the crown for their consideration.

[Enclosure in No. 5.]

Newspaper extract.

HEAD POLICE OFFICE.—ENLISTMENT FOR THE AMERICAN SERVICE.—(Before Mr. Allen.)—Yesterday Patrick H. Finney was summoned by William Pike for refusing to pay him £3 7s. 9d. wages.

Mr. McKenna appeared for the defendant.

The complainant stated that he was a painter by trade, and last worked with Mr. Marsh, of Omagh. He claimed the wages for writing and circulating through the town for Finney that he had come here for the purpose of taking out 3,000 emigrants to America to work on railways, &c. Witness acted along with two other persons named Hynes and Byrne. The agreement was that they were to work for Finney and for no other person, and that he would pay better than any one else in Ireland could or would. Finney went to Galway, and after he returned, witness showed him names of persons. Finney said that not more than two hundred of those would suit.

Mr. Allen. How did you get introduced to Finney?

Witness. I was in Saunders's News-Letter office, and was told by a party present that Finney was in the London hotel for the purpose; the witness further said that he went to the hotel and asked Finney the terms, Hynes and Byrne being present; told him he could get him plenty of men. Finney did not name any sum; he said he would take them in a steamboat from Galway to Boston; the emigrants were to get a free passage, but were to repay the passage money afterwards. The only other person present at that interview was the wife of the hotel-keeper. Witness procured him about three hundred and sixty-five

names altogether. Finney, after his return from Galway, said he wanted tip-top men; he did not say how many of the persons witness did get would suit him, but said he would see about it; witness saw money with him, and got 8s. 6d. from him at different times. Afterwards Finney showed him the bounty that was being given for the American army, and from some conversation with him he believed that was the purpose for which he wanted the men; Finney said he conceived they would all join the army when they saw the amount of wages and the bounty that were being given; witness called on him for a settlement at different times.

Mr. Allen. You were not going to America yourself?

Witness. No. I don't intend to go. I have been there before.

Mr. McKenna. You did not intend to go?

Witness. At first I did; he said he came here to give the people bread, but, from the conversation I heard afterwards, I thought it was lead he wanted to give them.

To Mr. McKenna. I wrote letters for him, and a copy of the agreement that the men were to sign; I wrote one letter to Sable & Searle, of Liverpool, by his direction; I wrote it in his name; I wrote a copy of the agreement for him on the Monday he went to the park. The substance of the agreement was that the undersigned, in consideration of Finney advancing them various sums of money, would proceed to Boston, in the United States, and agreed to work in the Charlestown water-works, in the city of Charlestown, for the Barr Valley and the Franklin Coal Companies, for the Boston and Hartford railway, &c. At first Finney said he would pay witness and others better than any one else could for their trouble, but later in the evening he said he would give them 2s. a man for every man they got.

Mr. Allen. Were you to get anything else?

Witness. Yes, I was to get a free passage and a position in America.

The witness said, in reply to the defendant's attorney, that on different occasions he brought Finney able-bodied stout men, and not a mere list of names; brought him more than twenty, and he said, "All right, that will do." Finney showed him that the soldier's pay was equal to £40 a year; that the government city bounty was \$85; and that, on the whole, the person accepting the engagement would have £140 to his credit at the end of the year.

Mr. Allen. Did you get it from his own mouth?

Witness. I did, when there was no other person present, in the little parlor in the hotel in D'Olier street; he calculated it on paper at the table, but took the calculations away with him. The memorandum now produced is my own.

Mr. McKenna submitted that if there had been an enlistment for foreign service the plaintiff could not recover his demand.

Witness. He was talking about the army; he said, "You see the difference; it is a far better place than Ireland; we can't hold them if they go into the army, but we can hold them if they attempt to work for any one else." He did not say he wanted them for the army, but he showed the difference.

Mr. Allen. I am afraid I cannot give you anything. According to your own statement, this gentleman came to you to agree with him to get recruits from Galway and different places for the American army. Now, to raise troops in that manner here is illegal, and no one can get any compensation for doing what is contrary to law; in fact, the only recompense you can get here is punishment. I dismiss the case.

The defendant said he got his agreement examined by Lord Duncannon.

The complainant, in reply to Mr. Allen, said he did not know what became of the men he did get.

[It is almost unnecessary to say that the conversation referred to by the witness in the above case as having taken place in Saunders's News-Letter office, must have passed between him and some reader of our advertising sheet in the outer office.)

No. 6.

Sir F. Rogers to Mr. Hammond.—(Received February 10.)

DOWNING STREET, *February 10, 1864.*

SIR: I am directed by the Duke of Newcastle to transmit to you, for the information of Earl Russell, as bearing on the question of foreign enlistment, a copy of a letter from the colonial land and emigration commissioners, forwarding the usual return of the emigration from the United Kingdom for the quarter and for the year ending 31st December, 1863.

By the annexed tables it appears that in the three years preceding 1862 (in which the effects of the recruitment may have begun to be sensible) the emigration to the United States was composed as follows: single men, 65,883; others, 141,734; total, 207,567.

The proportion of single men to others was, therefore 46.4 to 100.

In 1863 the number of persons, other than single men, who emigrated was 93,783.

If the normal proportion of 46.4 to 100 had been preserved in 1863, the number of single men would have been about 43,476. It was actually 53,030: that is, the emigration of single men was about 10,000 more than the experience of the three years preceding 1862 would have led us to expect.

This furnishes a faint ground for conjecturing that recruitment may have gone on to about that extent.

I am, &c.,

FREDERIC ROGERS.

[Enclosure 1 in No. 6.]

Mr. Murdoch to Sir F. Rogers.

EMIGRATION BOARD, *January 23, 1864.*

SIR: I transmit, herewith, for the information of his grace the Duke of Newcastle, a return of the emigration from the United Kingdom for the quarter and for the year ending 31st December, 1863.

2. I also enclose a return distinguishing the sexes of the emigrants and adults from children, and exhibiting, so far as can be ascertained from the passenger lists furnished by the custom-house authorities, the trade, occupation, or profession of the adults.

3. As much attention has recently been attracted to the emigration from Ireland to the United States, and to the probability that a portion of the emigrants go with the intention of enlisting, I add a table showing the numbers of single men and of Irish who have emigrated to the United States during the last five years, and the proportion they bear to the whole emigration of those years respectively. What is the exact number of Irish among the single men it would not be possible without much trouble to ascertain; but as the Irish constitute nearly two-thirds of the whole emigration to the United States, it may fairly be assumed that they constitute an equal proportion of the single men. This would give something more than 35,000 Irish single men.

4. The proportion both of the single men and of the Irish was larger in 1863 than in any of the preceding four years, though not to such an extent as to justify the assumption that any great effect is attributable to the temptations offered to recruits. It is more probable that the high wages now prevailing in the United States, as contrasted with the distress existing in Ireland, is the inducement which has led so many emigrants from that country to America. The

number of Irish who have gone to other countries is 21,914; but the largeness of the number to the United States as compared with the number to all other countries is to be accounted for by the large remittances sent home by Irish emigrants already settled in the States to assist their friends at home, and the consequent facility in reaching that country as compared with other countries.

I have, &c.,

T. W. C. MURDOCH.

[Enclosure 2 in No. 6.]

Return of the emigration from the United Kingdom to all parts of the world during the year 1863, distinguishing adults, children, and infants, also the sexes; and showing the trade, occupation, or profession of the adults as far as can be ascertained from the passenger lists furnished by the custom-house authorities.

Description of emigrants embarked.	DESTINATION.				Total.
	United States.	British North America.	Australasia.	All other places.	
Adults—Married males	12,319	1,169	5,908	591	19,987
Married females	15,576	1,372	6,515	418	23,881
Single males	53,030	3,007	19,010	1,427	76,474
Single females	31,703	1,739	11,451	428	45,321
Children—1 to 12 years, males	10,088	1,268	4,223	216	15,795
1 to 12 years, females	9,598	1,130	3,949	175	14,852
Infants—Males	3,082	273	817	26	4,198
Females	2,962	213	787	37	3,999
Not distinguished as to age, males ..	5,504	4,932	343	2,247	13,026
Not distinguished as to age, females	2,951	2,980	51	243	6,225
Total	146,813	18,083	53,054	5,808	223,758
NATIVE COUNTRY OF EMIGRANTS.					
English	32,570	2,550	24,654	1,469	61,243
Scotch	3,481	3,168	8,113	468	15,230
Irish	94,477	3,947	17,390	577	116,391
Foreigners	5,820	418	918	677	7,833
Not distinguished	10,465	8,000	1,979	2,617	23,061
Total	146,813	18,083	53,054	5,808	223,758

Return of the emigration, &c.—Continued.

Occupation.	United States.	British North America.	Australasia.	All other places.	Total.
ADULT MALES.					
Agricultural laborers, gardeners, cart-ers, &c.....	121	143	1,908	70	2,242
Bakers.....	371	13	80	5	469
Blacksmiths and farriers.....	82	14	142	9	247
Bookbinders and stationers.....	20	6	5	1	32
Boot and shoe makers.....	348	24	141	4	517
Braziers, tinsmiths, whitesmiths, &c.....	238	8	19	1	266
Brick and tile makers, potters, &c.....	7	1	25	1	34
Bricklayers, masons, plasterers, slaters, &c.....	1,156	22	160	3	1,341
Builders.....	32	1	17	1	51
Butchers, poulterers, &c.....	102	9	55	3	169
Cabinet-makers and upholsterers.....	30	2	30	1	63
Carpenters and joiners.....	1,206	91	191	16	1,504
Carvers and gilders.....	21	4	5	—	30
Clerks.....	376	92	247	77	792
Clock and watch makers.....	70	—	18	2	90
Coach-makers and trimmers.....	6	1	11	—	18
Coal-miners.....	27	2	14	2	45
Coopers.....	124	8	16	2	150
Cutlers.....	85	1	6	—	92
Domestic servants.....	168	15	71	2	246
Dyers.....	14	2	7	—	23
Engravers.....	51	—	8	—	59
Engineers.....	276	26	92	39	433
Farmers.....	6,555	717	1,530	115	8,917
Gentlemen, professional men, merchants, &c.....	890	174	1,132	319	2,515
Jewellers and silversmiths.....	3	1	13	—	17
Laborers, general.....	40,386	1,493	13,932	165	55,976
Locksmiths, gunsmiths, &c.....	19	1	3	—	23
Millers, malsters, &c.....	184	6	27	—	217
Millwrights.....	11	1	19	2	33
Miners and quarrymen.....	2,454	256	486	24	3,220
Painters, paper-hangers, plumbers, and glaziers.....	433	5	76	6	520
Pensioners.....	20	10	9	1	40
Printers.....	100	8	48	4	160
Rope-makers.....	3	—	4	—	7
Saddlers and harness-makers.....	43	1	23	3	70
Sail-makers.....	5	—	6	—	11
Sawyers.....	16	16	31	—	63
Seamen.....	269	49	71	3	392
Shipwrights.....	15	8	13	2	38
Shopkeepers.....	446	53	596	21	1,116
Smiths, general.....	727	6	75	1	809
Spinners and weavers.....	1,518	332	234	2	2,086
Sugar-bakers, bollers, &c.....	46	—	22	—	68
Surveyors.....	—	—	15	2	17
Tailors.....	752	32	51	3	838
Tallow-chandlers and soap-makers.....	13	—	—	—	13
Tanners and curriers.....	50	1	9	2	62
Turners.....	13	3	6	1	23

Return of the emigration, &c.—Continued.

Occupation.	United States.	British North America.	Australasia.	All other places.	Total.
ADULT MALES.					
Wheelwrights.....	44	-----	26	1	71
Wool combers and sorters.....	5	-----	4	-----	9
Other mechanics not before specified.....	2,130	60	104	22	2,316
Not distinguished.....	3,278	458	2,785	1,080	7,601
ADULT FEMALES.					
Domestic and farm servants, nurses, &c.....	13,968	433	5,249	33	19,683
Gentlewomen and governesses.....	74	37	110	28	249
Milliners, dress-makers, needlewomen.....	967	28	113	5	1,113
Married women.....	15,576	1,372	6,515	418	23,881
Shopwomen.....	3	1	1	-----	5
Mechanics not before specified.....	53	26	129	-----	208
Not distinguished.....	16,638	1,214	5,849	362	24,063
CHILDREN.					
Male children, 1 to 12 years.....	10,088	1,268	4,223	216	16,795
Female children, 1 to 12 years.....	9,598	1,130	3,949	175	14,852
Infants.....	6,044	486	1,604	63	8,197
Not distinguished as to age.....	8,455	7,912	394	2,490	19,251
Grand total.....	146,813	18,083	53,054	5,808	223,758

[Enclosure 3 in No. 6.]

Return of the emigration to the United States during the years 1859, 1860, 1861, 1862, and 1863:

Year.	Total emigration.	EMIGRATION TO THE UNITED STATES.		SINGLE MEN TO THE UNITED STATES.		IRISH EMIGRATION TO THE UNITED STATES.	
		Numbers.	Proportion.	Numbers.	Proportion.	Numbers.	Proportion.
1859.....	120,432	70,303	58.37	22,927	32.61	41,180	58.57
1860.....	128,469	87,500	68.10	27,547	31.48	52,103	59.54
1861.....	91,770	49,764	54.23	15,359	30.86	28,209	56.68
1862.....	121,214	58,703	48.43	19,398	33.04	33,521	57.09
1863.....	223,758	146,813	65.61	53,030	36.12	94,477	64.35



[Enclosure 4 in No. 6.]

Return of emigration from ports in the United Kingdom at which there are government emigration officers, for the quarter ending 31st December, 1863.

Port of departure.	United States.	British North America.	Australian Colonies.	All other places.	Total.
Liverpool.....	20,505	724	4,208	402	25,839
London.....	456	6	3,941	793	5,196
Plymouth.....	-----	-----	1,442	-----	1,442
Southampton.....	-----	-----	649	1,568	2,017
Total England.....	20,961	730	10,240	2,563	34,494
Glasgow and Greenock..... (Being the total from Scotland.)	326	253	357	67	1,003
Cork.....	4,728	211	-----	-----	4,939
Galway.....	1,897	-----	-----	-----	1,897
Limerick.....	-----	-----	-----	-----	-----
Londonderry.....	374	416	-----	-----	790
Tralee.....	-----	-----	-----	-----	-----
Total Ireland.....	6,999	627	-----	-----	7,626
Grand total.....	28,286	1,610	10,597	2,630	43,123

Table showing the origin of the emigrants comprised in the above emigration.

Destination.	English.	Scotch.	Irish.	Foreigners.	Not distinguished.	Total.
United States.....	7,945	1,036	16,143	1,742	1,420	28,286
North American colonies..	498	242	651	169	50	1,610
Australian colonies.....	5,077	1,539	3,683	233	65	10,597
All other places.....	1,059	233	221	568	549	2,630
Total.....	14,579	3,050	20,698	2,712	2,084	43,123

Emigration for the under-mentioned periods from those ports of the United Kingdom at which there are emigration officers.

FROM LIVERPOOL.

Quarter ending 31st December.	United States.	British North America.	Australian colonies.	All other places.	Total.
1847.....	20,028	14	3	176	20,221
1848.....	34,156	35	112	531	34,833
1849.....	31,836	21	211	266	32,334
1850.....	44,556	56	344	294	45,249
1851.....	41,307	318	423	632	42,680
1852.....	33,079	14	8,095	129	41,317
1853.....	32,831	619	4,094	188	37,732
1854.....	25,308	169	9,468	92	35,037
1855.....	14,506	39	3,112	151	17,808
1856.....	18,647	558	8,855	125	28,185
1857.....	13,411	283	6,614	79	20,387
1858.....	8,734	290	4,777	551	14,352
1859.....	8,760	540	4,274	1,439	15,004
1860.....	10,985	770	2,489	333	14,577
1861.....	4,297	852	3,742	846	9,237
1862.....	7,881	713	3,276	212	12,081
1863.....	20,505	724	4,208	402	25,839

FROM LONDON, PLYMOUTH, AND SOUTHAMPTON.*

Quarter ending 31st December.	United States.	British North America.	Australian colonies.	All other places.	Total.
1847.....	1,412	10	1,836	1,088	4,346
1848.....	8,927	8	8,151	862	10,938
1849.....	1,092	73	6,859	1,487	9,511
1850.....	1,689	137	2,957	1,201	5,984
1851.....	2,867	10	6,100	635	9,612
1852.....	3,091	5	10,182	720	13,998
1853.....	4,094	-----	8,193	438	12,725
1854.....	3,153	10	11,699	501	15,363
1855.....	1,223	-----	4,159	541	5,922
1856.....	1,708	352	7,669	1,149	10,878
1857.....	1,537	-----	5,225	641	7,403
1858.....	385	11	4,446	573	5,415
1859.....	680	-----	2,385	3,632	6,697
1860.....	743	12	2,633	1,401	4,789
1861.....	239	7	4,075	1,072	5,393
1862.....	171	23	6,751	748	7,693
1863.....	456	6	6,032	2,161	8,655

* The emigration from Southampton is not included until the year 1853.

FROM SCOTCH PORTS.

Quarter ending 31st December.	United States.	British North America.	Australian colonies.	All other places.	Total.
1847.....	257	9	249	66	580
1848.....	1,185	3	62	34	1,284
1849.....	3,298	.....	.....	.....	3,298
1850.....	1,775	8	62	58	1,903
1851.....	1,199	7	237	81	1,524
1852.....	702	5	813	57	1,577
1853.....	1,135	.....	631	29	1,795
1854.....	717	.....	327	56	1,100
1855.....	139	.....	58	36	233
1856.....	658	.....	314	58	1,030
1857.....	452	.....	351	76	879
1858.....	378	.....	52	52	482
1859.....	248	35	617	56	956
1860.....	144	31	458	69	702
1861.....	53	84	366	69	552
1862.....	169	316	1,252	73	1,810
1863.....	326	253	357	67	1,003

FROM IRISH PORTS.

Quarter ending 31st December.	United States.	British North America.	Australian colonies.	All other places.	Total.
1847.....	500	473	.....	.....	973
1848.....	7,250	.....	.....	4	7,254
1849.....	851	.....	195	182	1,138
1850.....	3,836	.....	.....	.....	3,836
1851.....	6,694	2,953	.....	.....	9,647
1852.....	2,059	.....	.....	10	2,069
1853.....	2,052	4	.....	375	2,431
1854.....	769	.....	307	.....	1,076
1855.....	244	.....	.....	.....	244
1856.....	106	.....	9	116	231
1857.....	.....	3	.....	1	4
1858.....	460	4	.....	6	470
1859.....	1,429	32	.....	.....	1,461
1860.....	3,053	895	14	.....	3,962
1861.....	1,129	248	.....	.....	1,377
1862.....	2,355	575	770	.....	3,700
1863.....	6,999	627	.....	.....	7,626

TOTAL FROM EMIGRATION OFFICERS' STATIONS IN THE UNITED KINGDOM.

Quarter ending 31st December.	United States.	British North America.	Australian colonies.	All other places.	Total.
1847.....	22,197	506	2,087	1,330	26,120
1848.....	44,517	46	8,325	1,421	54,309
1849.....	37,077	94	7,175	1,935	46,281
1850.....	51,855	201	3,363	1,553	56,973
1851.....	52,067	3,288	6,760	1,348	63,463
1852.....	38,931	24	19,090	916	58,961
1853.....	40,112	623	12,918	1,030	54,683
1854.....	29,947	179	21,801	649	52,576
1855.....	16,111	39	7,329	728	24,207
1856.....	21,119	910	16,847	1,448	40,324
1857.....	15,400	286	12,190	797	28,673
1858.....	9,957	305	9,275	1,182	20,719
1859.....	11,117	607	7,276	5,118	24,118
1860.....	14,925	1,708	5,594	1,803	24,030
1861.....	5,698	1,191	8,183	1,487	16,559
1862.....	10,576	1,626	12,049	1,033	25,284
1863.....	28,286	1,610	10,597	2,630	43,123

[Enclosure 5 in No. 6.]

Return of emigration from the United Kingdom for the year 1863.

Port of departure.	United States.	British North America.	Australian colonies.	All other places.	Total.
Liverpool.....	109,113	7,912	19,672	1,102	137,799
London.....	4,082	240	18,243	2,901	25,466
Plymouth.....		150	7,650		7,800
Southampton.....			2,580	1,368	3,948
Total England, from ports at which there are emigration officers.....	113,195	8,302	48,145	5,371	175,013
Total from all other ports.....	40	39	58	59	196
Total England.....	113,235	8,341	48,203	5,430	175,209
Glasgow and Greenock.....	379	4,036	3,235	240	7,890
Total Scotland, from ports at which there are emigration officers.....	379	4,036	3,235	240	7,890
Total from all other ports.....			40	1	41
Total Scotland.....	379	4,036	3,275	241	7,931

Return of the emigration, &c.—Continued.

Port of departure.	United States.	British North America.	Australian colonies.	All other places.	Total.
Cork.....	25,540	1,037	1,576	-----	28,153
Galway.....	3,437	184	-----	-----	3,571
Limerick.....	-----	188	-----	-----	188
Londonderry.....	3,567	4,157	-----	-----	7,724
Total Ireland, from ports at which there are emigration officers.....	32,544	5,516	1,576	-----	39,636
Total from all other ports.....	655	190	-----	137	982
Total Ireland.....	33,199	5,706	1,576	137	40,618
Total from ports at which there are emigration officers.....	146,118	17,854	52,956	5,611	222,539
Total from all other ports.....	695	229	98	197	1,219
Grand total United Kingdom..	146,813	18,083	53,054	5,808	223,758

Table showing the origin of the emigrants comprised in the above emigration.

Destination.	English.	Scotch.	Irish.	Foreigners.	Not distinguished.	Total.
United States.....	32,570	3,481	94,477	5,820	10,465	146,813
North American colonies..	2,550	3,168	3,947	418	8,000	18,083
Australian colonies.....	24,654	8,113	17,390	918	1,979	53,054
All other places.....	1,469	468	577	677	2,617	5,808
Total.....	61,243	15,230	116,391	7,833	23,061	223,758

No. 7.

Mr. Waddington to Mr. Hammond.—(Received February 15.)

WHITEHALL, February —, 1864.

SIR: I am directed by Secretary Sir George Grey to transmit to you, for the information of Earl Russell, as bearing on the question of foreign enlistment, a copy of a letter from the colonial office, forwarding a copy of a communication from the colonial land and emigration commissioners, with tables annexed.

I am, &c.,

H. WADDINGTON.

[Enclosure 1 in No. 7.]

*Sir F. Rogers to Mr. Waddington.*DOWNING STREET, *February 10, 1864.*

SIR: I am directed by the Duke of Newcastle to transmit to you, for the information of Secretary Sir George Grey, as bearing on the question of foreign enlistment, a copy of a letter from the colonial land and emigration commissioners, forwarding the usual return of the emigration from the United Kingdom for the quarter and for the year ended 31st December, 1863.

By the annexed tables it appears that in the three years preceding 1862 (in which the effects of the recruitment may have begun to be sensible) the emigration to the United States was composed as follows: single men, 65,833; others, 141,734; total, 207,567. The proportion of single men to others was, therefore, 46.4 to 100.

In 1863 the number of persons other than single men who emigrated was 93,783.

If the normal proportion of 46.4 to 100 had been preserved in 1863, the number of single men would have been about 43,476. It was actually 53,030: that is, the emigration of single men was about 10,000 more than the experience of the three years preceding 1862 would have led us to expect. This furnishes a faint ground for conjecturing that recruitment may have gone on to about that extent.

I am, &c.,

FREDERIC ROGERS.

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[For enclosure 2 in No. 7, Mr. Murdoch to Sir F. Rogers, January 23, 1864, see enclosure 1 in No. 6.]

[For enclosure 3 in No. 7, "emigration returns," see enclosures 2, 3, 4 and 5 in No. 6.]

No. 8.

Mr. Waddington to Mr. Hammond.—(Received February 19.)

[Extract.]

WHITRHALL, *February 19, 1864.*

Referring to the previous correspondence relative to an alleged breach of the foreign enlistment act by Mr. Patrick H. Finney, I am directed by Secretary Sir George Grey to acquaint you, for the information of Earl Russell, that the papers in the case having been laid before the law officers of the crown in Ireland, they delivered an opinion, dated the 2d instant. The crown solicitor having been instructed to act upon that opinion with regard to procuring further evidence from the witness, William Pike, obtained from him a statement in writing, which has also been submitted to the law officers, who are of opinion that the evidence would not be sufficient to sustain a prosecution.

I am, &c.,

H. WADDINGTON.

No. 9.

*Mr. Waddington to Mr. Hammond.—(Received February 27.)*WHITEHALL, *February 26, 1864.*

SIR: Referring to the correspondence which has taken place on the subject of recruiting in Ireland for the federal government of America, I am directed by Secretary Sir George Grey to transmit to you, for the information of Earl Russell, a copy of a report received by the Irish government from the commissioner of the Dublin police, describing the embarkation of the first party of emigrants despatched by the agency of P. J. Finney.

I am, &c.,

H. WADDINGTON.

[Enclosure in No. 9.]

*Report.*DUBLIN METROPOLITAN POLICE, *February 23, 1864.*

I beg to state that I find that P. J. Finney procured an office in the back room of a cottage in Guild street, in this city, where a number of young men assembled on yesterday, forty-three of whom received dockets from him, which they subsequently presented to the office of Mr. Delany, 13 North Wall, where they were furnished with tickets to proceed to Liverpool by the Trafalgar steamer, which sailed from North Wall on last evening. On their arrival in Liverpool they will embark in one of the Oriental Steam Company's vessels, and be forwarded to Boston per arrangement made by Messrs. Sable & Searle, shipping agents, Water street, Liverpool.

It is said that about the same number will leave per this evening's steamer. They are engaged, as it is said, to work upon railways, &c., and all are of the laboring class, and strong athletic young men.

DANIEL RYAN,
Superintendent.

Submitted.

J. L. O. FERRALL.

FEBRUARY 23, 1864.

No. 10.

*Mr. Waddington to Mr. Hammond.—(Received March 1.)*WHITEHALL, *February 29, 1864.*

SIR: With reference to the previous correspondence on the same subject, I am directed by Secretary Sir George Grey to transmit to you, for the information of Earl Russell, a copy of a report which has been received by the Irish government from the Dublin police respecting the embarkation of fifty-five young men by the agency of P. J. Finney.

I am, &c.,

H. WADDINGTON.

[Enclosure in No. 10.]

Report.

DUBLIN METROPOLITAN POLICE,
Superintendent's Office, G Division, February 24, 1864.

Referring to my report of yesterday respecting P. J. Finney, I beg to state that fifty-five young men of the class therein described left this city on yesterday evening per steamer for Liverpool. It is said that the vessel which shall convey them to Boston shall sail from Liverpool on to-morrow.

DANIEL RYAN,
Superintendent.

The COMMISSIONERS OF POLICE,

Submitted.

J. L. O'FERRALL.

FEBRUARY 21, 1864.

PAPERS RELATING TO THE SEIZURE OF THE UNITED STATES STEAMER
 CHESAPEAKE.

A copy of extracts of correspondence with the government of Nova Scotia on the subject of the Chesapeake.

No. 1.

Lord Lyons to Earl Russell.—(Received December 22.)

WASHINGTON, December 11, 1863.

MY LORD: The enclosed extract from the New York Herald of yesterday will make your lordship acquainted with the intelligence which has been received here of the seizure of an American steamer, the Chesapeake, plying between New York and Portland, by a party of men who embarked as passengers at New York. The master and crew appear to have been landed at Partridge island, at the entrance of the harbor of St. John, New Brunswick.

I have not had any communication with the United States government about this affair, nor have I received any intelligence concerning it except that contained in newspapers

I have, &c.,

LYONS.

[Enclosure in No. 1.]

Extract from the New York Herald of December 10, 1863.

MURDER AND PIRACY.—CAPTURE OF THE STEAMER CHESAPEAKE, OF NEW YORK, BY REBEL PASSENGERS.

ST. JOHN, NEW BRUNSWICK,
 December 9, 1863.

The steamer Chesapeake, Captain Willetts, from New York for Portland, Maine, was taken possession of on Monday morning last, between 1 and 2 o'clock, by sixteen rebel passengers.

The second engineer of the steamer was shot dead and his body thrown overboard. The first engineer was shot in the chin, but was retained on

board. The first mate was badly wounded in the groin. Eleven or twelve shots were fired at the captain. After being overpowered, the captain was put in irons, and the passengers were notified that they were prisoners of war to the Confederate States of America. The steamer came to off Partridge island, at about 1 o'clock this morning. The crew and passengers, except the first engineer, were put on board a boat and sent to this city. The steamer then sailed in an easterly direction, and was subsequently seen alongside another vessel. It is supposed that she took on board a supply of coal from her. The attack took place about twenty-one miles east of Cape Cod. Captain Willett's and the passengers per the Chesapeake are now at the Mansion House. The steamer and cargo were valued at \$180,000. The steamer sailed from New York on Saturday at 4 o'clock, p. m., and was one of the regular line plying between New York and Portland. It will be recollected that it was the Chesapeake that captured Captain Reed and his party when they attempted to run away with the cutter Cushing from the harbor of Portland. The following telegraphic despatch was received by Mr. Cromwell :

From United States consul, St. Johns.

"PORTLAND, December 9, 1863.

"Steamer Chesapeake was captured twenty-one miles north-northeast of Cape Cod, at half past 1 a. m., on Monday, by rebels, who left New York as passengers. Second engineer killed and thrown overboard. Chief engineer and mate wounded. Captain Willetts and crew were landed at St. John this morning.

"H. B. CROMWELL & Co."

"PORTLAND, MAINE, December 9, 1863.

"Deputy Collector Bird has applied to the Washington authorities for permission to despatch the Agawam, the new gunboat now furnishing here, after the Chesapeake, and, in the mean time, the collector is fitting her out with guns, men, and provisions. Two detachments of soldiers have been furnished for the expedition by Brigadier General Rowley, from the conscript camp, and Major Andrews from Port Preble. She will sail about 6 o'clock this evening, under command of Captain Webster, of the revenue cutter Dobbin. Citizens are volunteering as crew."

Additional details.

The public were thrown into a fever of excitement yesterday by the above telegrams announcing that a party of pirates, who embarked as passengers on board the steamer Chesapeake, had captured her after some resistance by the officers, about twenty-one miles west of Cape Cod. The boldness of the affair was a theme of universal conversation, and a large number of persons interested in the passenger list and cargo immediately sought the office of the owners, H. B. Cromwell & Co., to learn further of the particulars. Marshall Murray was notified early, and took possession of the passenger list, with a view to further the ends of justice.

From all we can learn there were only seven persons who purchased passage tickets for Portland, Maine, while a dozen or more persons, dressed shabbily, some as returned soldiers, went on board and purchased their tickets of the clerk of the boat. This not being an unfrequent method of doing business, of course would not create any suspicions either in the minds of the clerk or captain. Among the seven passengers who obtained their tickets at the office was one person who stated to the clerk that he was an old sea-captain, and preferred this mode of reaching Portland on account of its being the pleasantest and cheapest. Before she started some fifteen persons were counted on her deck; but even at the office nothing was thought of it.

She was full of freight, consisting of cotton, rags, provisions, and general merchandise. She only carries about thirty tons of coal, which is enough to last her for the round trip, and had not more than three days' coal at the time of her capture, so that the rebels cannot go very far with her. She carried two guns, six-pounders, one brass and the other iron, several revolvers, and some other fire-arms.

It is not known whether there was any powder on board, but it is supposed there was not much. Her sails are small and cannot be depended upon. There was no war risk, and the value of the vessel is over \$60,000. It is not known whether the cargo was insured. The captain is expected to arrive here to-day, and then the full particulars will be obtained.

The steam propeller Chesapeake was owned by H. B. Cromwell, of this city, and was a splendid vessel in every respect. She was built in 1853, by J. A. Westervelt, was 460 tons burden, and eleven feet draught of water, built of oak, schooner-rigged, and had a direct-acting engine of 200 horse-power, one cylinder of forty inches, and forty-two inch piston. She has always been a popular boat on this route, and was the vessel which chased Captain Reid, of the Tacony, at the time of his famous foray in Portland harbor, June 27, and succeeded in capturing his vessel, the schooner Archer.

The Chesapeake carried a crew of about twenty persons, who were, no doubt, so scattered throughout the vessel that they did not have time to collect and retain possession of the steamer. The officers no doubt made a desperate resistance, as the second engineer, Mr. Orin Schaffer, was shot dead and his body thrown overboard; and the chief officer and chief engineer were wounded.

The following is a list of her officers and crew: captain, Isaac Willetts; mate, Chas. Johnson, wounded; second mate, Daniel Henderson; engineers: first, James Johnson, wounded; second, Orin Schaffer, killed; third, August Strebeck; firemen, Patrick Connor, R. Tracey, John Murphy; seamen, Albion Alsen, Thos. Hudson, Peter Westerman, David Hopkins; steward, P. Kelly; stewardess, Jenny Borguine; cook, A. Peterson; waiters, Peter Whalen, and two or three others.

The capture was made at half-past 1 o'clock on Monday morning, when there was only one-half the crew on duty, the others being below asleep. Mr. Schaffer, the second assistant engineer, was, no doubt, on watch, and probably lost his life while endeavoring to protect the property of his employers and vindicate the honor of his flag. He has been a long time in the employ of this line, and has always won the respect and esteem of his employers. He was a young man and leaves a wife and children. The captain was probably asleep, as it was midnight, and the task of capturing the vessel was an easy one, when confided to the hands of the dozen or more villains who had matured their hellish plans.

There are grounds for supposing that these murdering pirates intend running the blockade with their prize, as it has been ascertained that 500 packages, invoiced as merchandise, containing liquors, bonded for Montreal, were on board. The acquisition of her cargo, which is a valuable one, and the steamer, which would be also valuable to convey it into Wilmington, would tempt almost any determined band of sea-devils to hazard such a bold act; and as the city has been full of men who have run the blockade several times, it is fair to suppose some of them have had a hand in the operation.

This affair should stir up the Navy Department to the possibility of the Alabama or Georgia being in the vicinity, for it will be remembered that when the Tacony made her raid upon the fishermen the Florida was not far distant. This may be a preconcerted thing to draw out a large number of armed chartered government gunboats; and the regular privateers would like no better fun than to capture half a dozen or more of that class of vessels. The rebels would loudly sing the praises of their corsairs, while France and England would taunt

us on the inefficiency of our naval vessels. It may be that these now unknown men are a portion of the Johnson's island rebels, who, frustrated in their plans for success in that quarter, have come into this locality, where quietly they have planned the capture of this or some other vessel by which to make havoc upon the sea, and knowing full well if captured they will only be subjected to a short confinement, fed and clothed well, and then set adrift, to make as much more mischief as they deem proper. At any rate, the blockade-runners brought to grief should not be allowed to go at large when captured.

As soon as the news of the capture of the Chesapeake reached the Brooklyn navy yard, Admiral Paulding and Commodore Radford set to work to fit out a fleet to be sent in pursuit of the prize. The Sebago, Grand Gulf, and Vicksburg, being the most suitable, and the nearest ready for sea, a large gang of men were set to work to get them ready as quickly as possible. They were worked upon all night, and will be off at an early hour this morning. Other vessels will be despatched as soon as they can be got ready.

The Vicksburg is a new vessel, and this will be her first cruise, and it is in accordance with the expressed desire of her officers that she should be sent on special service. She now has an opportunity to do something. The following is a list of her officers :

Lieutenant commander, Daniel L. Braine ; acting master and executive officer, Jas. H. Rogers ; acting assistant paymaster, T. E. Smith ; acting assistant surgeon, T. W. Bennett ; acting ensigns, J. H. Harris, F. G. Osborne, and W. H. Bryant ; engineers, second assistants, H. A. Delius, (in charge,) H. P. Gregory ; third assistants, J. L. Bright, A. F. Nagle, and H. L. Slosson ; acting master's mates, Aaron Vanderbilt, W. O. M. D'Aubigne, and Robert Elder ; captain's clerk, Jas. W. Jones ; paymaster's clerk, Thos. A. Simonson.

The Grand Gulf is also a new vessel, and has only made a short cruise off Wilmington. Annexed is a list of the officers of the Grand Gulf :

Commander, George M. Ransom ; lieutenant and executive officer, Frederick Rogers ; acting assistant surgeon, George B. Higginbotham ; acting assistant paymaster, Edward B. Southworth ; acting ensigns, Charles H. Frisbie, Charles H. Cadieu, John Boyle, and Hans J. Ipsen ; engineers, acting second assistants, Geo. W. Shank, (in charge,) Campbell McEwan ; acting third assistants, Samuel V. Stillings, Benjamin James, and Joel M. Wheeler ; acting gunner, B. C. Betts ; acting master's mates, James Courtney, Thomas Mason, Harrison B. Cleaves ; commander's clerk, William S. Dick ; paymaster's clerk, Albert B. Gillet.

The Sebago is one of the fastest double-enders in the service, and as her list of officers was not completed last evening, we are unable to procure it. The Dawn and several other vessels will be despatched to-day, and possibly the revenue cutter Miami. At Boston, the Ticonderoga, Hendrik Hudson, and others, were rumored to have sailed last evening.

The Navy Department is awake, and in all its watchfulness it should not forget to warn the Wilmington blockaders that the Chesapeake may come along and report that she is bound to Beaufort or Charleston, and thus get the weather-gauge of them. Yet it is possible that, having taken in a supply of coal from the vessel she was seen alongside of, she will go forth to sink, burn, and destroy inoffensive merchantmen.

The following strange story appeared in one of the sensation evening papers on Monday. It was thought at first to be connected in some way with the Chesapeake affair ; but the dates do not correspond, and the Patapsco lies quietly moored alongside of her dock. It is a strange coincident of facts, and may be possibly the doings of some wicked sensationist ; but, be it true or not in foundation, it might have been thrown over from the Chesapeake, and the name given wrong as well as the dates, or it may have been done by one of the party of pirates, who threw it over while half-drunk, so that in the event of its being picked up it would be but the forerunner of events to take place :

"To the Editors of ——— :

"MONDAY, December 1, 1863.

"Yesterday, about dark, I picked up a bottle in the sound, with a white rag tied about the neck, and found this paper. I send it to you, thinking it might be of importance. I put one of my boys ashore at Harlem and send it to you. I will be in the city to-morrow, and will call on you.

"J. WILLIAMS,
"Master schooner *Betsy*."

"ON BOARD PATAPSCO, Sunday morning, daylight.

"Last night, about 12 o'clock, the captain and officers of the Patapsco were seized by a band of ruffians, between twenty and thirty in number, who had taken passage on board at New York.

"They were all thoroughly armed, and among their number were engineers and sailing-masters, who immediately took charge of the vessel. The passengers had nearly all retired, and all hands were so completely surprised that resistance was out of the question. The captain and officers were handcuffed and confined below, as also were all the passengers. I shall throw this overboard in a bottle.

"TWO HOURS LATER.

"There has been a great bustle on deck. A vessel is alongside, and cannon is being transferred to one vessel. The craft alongside is a steamer, and, from what I can see of her through my state-room window, she is pierced for cannon. From a conversation I overheard I gathered that there were two other vessels near by, to co-operate with them. Look out for a formidable raid somewhere."

The Latest.

PORTLAND, MAINE, December 9, 1863, 10 p. m.

A private despatch, received this evening, says there are many suspicious characters about St. John, and there are hints of a plot against the steamer New England.

Permission has arrived to put the gunboat *Agawam* in commission, which Deputy Collector Bird had already taken the responsibility of doing.

BOSTON, December 9, 1863.

The United States gunboat *Acacia* left here this evening to search for the Chesapeake.

No. 2.

Lord Lyons to Earl Russell.—(Received December 26.)

WASHINGTON, December 15, 1863.

MY LORD: On the 11th instant, a few minutes after I had sent off my despatch to your lordship of that day, Mr. Seward called upon me and showed me a telegram which he had just received from the United States vice-consul at Halifax. It had been not very correctly transmitted, but the substance of it appeared to be that the Chesapeake had been taken, by the passengers who seized her, into the port of Shelburne, in Nova Scotia, and that the crown lawyers at Halifax were deliberating on the case. Mr. Seward begged me to address a telegraphic despatch to the governor of Nova Scotia to request, in the

name of this government, that all proper measures might be taken to prevent the escape of the vessel. The result of my conversation with Mr. Seward was, that I despatched a telegram to General Doyle, the administrator of the government of Nova Scotia, stating that the Secretary of State of the United States requested me to beg him to take all measures compatible with international and municipal law, in order that justice might be done in the case. General Doyle having replied that the Chesapeake had not entered any port within his jurisdiction, I despatched, at Mr. Seward's request, a telegram to the governor of New Brunswick, to the same effect as that which I had sent to Nova Scotia.

I have the honor to enclose copies of correspondence which I have had on the subject.

I have, &c.,

LYONS.

[Enclosure 1 in No. 2, Lord Lyons to Mr. Seward, published elsewhere.]

[Enclosure 2 in No. 2, Mr. Seward to Lord Lyons, published elsewhere.]

No. 3.

Lord Lyons to Earl Russell.—(Received January 5, 1864.)

[Extract.]

WASHINGTON, December 21, 1863.

With reference to my despatch of the 15th instant, I have the honor to transmit to your lordship copies of further correspondence relative to the American steamer Chesapeake, which was taken possession of at sea by some of the passengers, who overpowered the master and crew.

Your lordship will find among the correspondence a note from Mr. Seward to me, informing me, by direction of the President, that this government has not authorized, and does not propose to justify, any exercise whatever of authority by its agents within the waters or on the soil of Nova Scotia; and that, if any such authority has been assumed, this government will at once express its profound regret, and stands ready, in that case, to make amends which shall be entirely satisfactory.

I have deemed it right to be content with this assurance until I shall receive fuller information of what has occurred in Nova Scotia, and shall be made acquainted with the views and wishes of the administrator of the government of the province.

An account of my communications with Mr. Seward on the subject is contained in the letter to Major General Doyle, which forms the last enclosure in this despatch.

[Enclosure 1 in No. 3, Mr. Seward to Lord Lyons, printed elsewhere.]

[Enclosure 2 in No. 3.]

Lord Lyons to Lieutenant Governor Gordon (and Major-General Doyle.)

[Telegraphic.]

WASHINGTON, December 16, 1863.

The United States government informs me, officially, that it has authentic intelligence that Braine and Parr, two men charged with having committed

piracy and murder on board the United States steamer Chesapeake, have taken refuge in Nova Scotia or New Brunswick; and it requests the British authorities to do anything which can be legally done to detain the two men, until formal affidavits can be forwarded, with a view to their extradition for trial. The Secretary of State suggests that, if it be alleged that the men were belligerents, and that their acts were acts of lawful warfare, the proper time for examining this plea will be when the propriety of complying with an actual demand for extradition shall be under consideration. I have answered that it is certain that your excellency will act in exact conformity with the requirements of municipal law, and international law, and comity.

[Enclosure 3 in No. 3, Lord Lyons to Mr. Seward, printed elsewhere.]

[Enclosure 4 in No. 3, Mr. Seward to Lord Lyons, printed elsewhere.]

[Enclosure 5 in No. 3.]

Lord Lyons to Lieutenant Governor Gordon.

[Extract.]

WASHINGTON, *December 17, 1863.*

I have the honor to transmit to you, herewith, a copy of a telegram which I despatched to you yesterday, in consequence of a note which I received in the morning from the Secretary of State of the United States, and of a conversation which I had with him later in the day. I despatched, simultaneously, an identical telegram to the administrator of the government of Nova Scotia.

[Enclosure 6 in No. 3, Mr. Seward to Lord Lyons, printed elsewhere.]

[Enclosure 7 in No. 3, Lord Lyons to Mr. Seward, printed elsewhere.]

[Enclosure 8 in No. 3.]

Lord Lyons to Major General Doyle.

(Extract.)

WASHINGTON, *December 21, 1863.*

I transmit to you copies of a note from Mr. Seward, and the answer from me. When I delivered this answer to him, Mr. Seward told me he should immediately telegraph his note *in extenso*, and my answer, to the United States consul at Halifax; and he read to me a telegram, which he said he should despatch at the same time, directing the consul to communicate the notes to you, and then

to dispose of the Chesapeake and the men taken on board, as you should direct.

On the following day I received your excellency's telegram of the 18th instant.* I immediately went to Mr. Seward, and after pointing out the material difference between the actual facts as stated by you, and the reports which he had received when he wrote his note, I said that I should consider whether it would not be necessary that I should address to him without delay an official written remonstrance against the proceedings of the United States officers. Mr. Seward observed to me that he had already declared in his note that this government had not authorized, and would not authorize, any exercise whatever of authority by its agents within the waters or on the soil of Nova Scotia. And that he had added, that if any such authority should have been assumed this government would at once express its profound regret, and make amends which should be entirely satisfactory. This having been done, he thought it would be better that any further written communications should be postponed until we had full information of what had occurred, or, at all events, until we knew what view your excellency would take of the note. I answered that I would beg him to consider whether the new facts which your excellency's telegram disclosed did not render it advisable that he should send further instructions to the United States officer at Halifax.

On reflection I came to the conclusion that it would be better to wait until I was made more fully acquainted with your excellency's views and wishes before I took any further steps. And thus the matter stands at the present moment.

No. 4.

Lord Lyons to Earl Russell.—(Received January 8, 1864.)

(Extract.)

WASHINGTON, December 24, 1863.

I have the honor to transmit to your lordship further papers relating to the affair of the Chesapeake.

The note dated the 20th instant, which contains the formal demand of the United States government for the extradition of the men engaged in the affair, was put into my hand by Mr. Seward at the State Department yesterday, with a request that I would inform the authorities in Brunswick and Nova Scotia as speedily as possible that the demand had been made.

Mr. Seward then gave me a paper, a copy of which forms enclosure No. 3 in this despatch. It was, he said, the decipher of a letter from a confederate agent at New York to Mr. Benjamin, the secretary of state at Richmond. Some of the proper names were, he observed, undecipherable, but the rest of the letter had been made out, and it showed that there were plots to seize two other steamers besides the Chesapeake, and to make use of the neighboring British territory to further the nefarious designs of the enemy.

Mr. Seward went on to say that the statement in the letter that a large number of rifled muskets had been sent to Halifax, and other facts which had come to his knowledge, made him apprehensive that the Chesapeake might not be safe at that place. He begged me to warn the authorities, and to ask whether the vessel would be made over at once to her owners if they applied for her with the sanction of the United States government. In consequence of this request, I despatched to Major General Doyle a telegram.

* See paragraph 16 of No. 5.

Mr. Seward said that the plots to get possession of United States steam-packets by sending confederate emissaries on board them in United States ports in the guise of passengers rendered it necessary to take extraordinary precautions at the ports, and to enforce restrictions there which might, he feared, cause some inconvenience to foreigners as well as to Americans, but the matter was too urgent and too important to admit of the neglect of any means of frustrating the nefarious designs which had been conceived.

[Enclosure 1 in No. 4, Mr. Seward to Lord Lyons, printed elsewhere.]

[Enclosure 2 in No. 4.]

Lord Lyons to Lieutenant Governor Gordon (and Major General Doyle.)

WASHINGTON, December 21, 1863.

SIR: I have this afternoon had the honor to send to your excellency by telegraph a summary of the contents of a note from the Secretary of State of the United States, demanding, in the usual form, the extradition of John C. Braine and others, concerned in the affair of the Chesapeake. I have the honor to transmit to you herewith a copy of that note. It is dated the day before yesterday, but was delivered only to-day.

I have, &c.,

LYONS.

[Enclosure 3 in No. 4.]

OFFICE OF U. S. MILITARY TELEGRAPH, WAR DEPARTMENT,

Washington, December 21, 1863.

Translation of a letter in cipher forwarded to the Secretary of War by Postmaster Wakeman, New York city.

NEW YORK, December 18, 1863.

—— is here. The two steamers will leave here about Christmas. Lamar and Boners left here via Bermuda two weeks ago. The 1,000 rifled muskets came duly to hand, and were shipped to Halifax as instructed. We will be able to seize the other two steamers as per programme.

—— has followed the President's orders. We will have —— under arrest before this reaches you; cost —000 dollars.

We want more money. How shall we draw? Bills all forwarded to Silldell and receipts received. Write as before.

J. H. C.

Hon. J. P. BENJAMIN.

Please detach and forward as before. Telegraph when return answer is received. Very important.

J. H. C., per T.

A. KEITH, *Halifax, Nova Scotia.*

No. 5.

Major General Doyle to the Duke of Newcastle.—(Received January 6.)

HALIFAX, NOVA SCOTIA, December 23, 1863.

MY LORD DUKE: I have the honor to report, for the information of your grace, the circumstances connected with the steamship *Chesapeake*, recently brought into this harbor by United States men-of-war.

2. On the 10th December a letter, a copy of which is annexed, was addressed to the honorable provincial secretary of my government by Mr. Gunnison, ex-vice-consul of the United States of America, stating that information had been received at the United States consulate that the American steamer *Chesapeake* had been seized by a band of pirates and murder committed, and requesting that should the *Chesapeake* or any one connected with her enter our ports, she should be detained, and the parties implicated arrested, and held to answer any charge that might be preferred against them.

3. At the same time, and subsequently between the 10th and 15th December, Mr. Gunnison handed the provincial secretary copies of the annexed telegrams, and an affidavit made by the vice-consul on the 14th instant, all of which were by my direction placed in the hands of the law officers of this government.

4. On the 11th instant I received a telegram from Lord Lyons, saying he was informed that the American government had heard that the steamer *Chesapeake* had put into a Nova Scotian port, and that the Secretary of State had begged him to take all measures compatible with international and municipal law, in order that justice might be done, to which I replied that the *Chesapeake* had not been heard of in any of our ports, and inquired whether I should detain her if she should come.

5. On the 14th instant the provincial secretary replied to the vice-consul that the question raised by his communication had been submitted to the crown officers, and that they did not see, as at present informed, that they could legally interfere. A copy of that letter is annexed.

6. During the 15th and 16th instant telegrams were received by the government here from the custom-house officers at Lunenburg and Bridgewater, saying that the *Chesapeake* had reported herself as the confederate war steamer *Retribution*, had exhibited commission from confederate authorities, and had thus obtained permission to land certain articles, and to purchase necessities; that on discovering that it was the *Chesapeake*, she had been forbidden to land anything more, and had sailed on the morning of the 16th instant; all of which is more fully detailed in the letters of the 14th and 18th instant, written by John Harley, collector of customs at Bridgewater, to the honorable receiver general, copies of which are annexed.

7. On the 15th instant I received a telegram from Lord Lyons, requesting me to obtain the best legal advice and act upon it, as it was impossible for him to foresee the circumstances under which the acts alleged to have taken place had occurred.

8. About 9 o'clock on the evening of the 16th instant, a formal requisition for the apprehension of Braine and others, of which a copy is annexed, was sent by Mr. Gunnison to the provincial secretary, and placed at once by that officer in the hands of the honorable J. W. Johnston, the attorney general; and at 1 o'clock a. m. next morning, upon the application of Mr. Gunnison through his attorney, stating that if he could obtain the necessary warrant Braine could then be arrested, the provincial secretary obtained a preliminary warrant from the attorney general, a copy of which is also annexed, and brought it for my signature at 2 o'clock a. m. It was signed by me, and having been taken at once to the chief justice, that officer, after receiving a deposition in the case, issued a

warrant for the apprehension of Braine, but the police, in whose hands it was placed, did not succeed in finding him. These proceedings were duly detailed by telegram to Lord Lyons.

9. About noon on the 17th instant I received a communication from the director of signals, stating that two steamers (apparently federal gunboats) were bringing in a steamer which had put into Sambro harbor the night before, and which was supposed to be the *Chesapeake*, all bearing the flag of the Federal States.

These American men-of-war having anchored opposite this city about half-past two o'clock p. m., and no report having been received from them, about half-past five o'clock p. m. I addressed the officer in command through the provincial secretary in a letter inquiring the names of the ships under his command, the object of their visit, and the circumstances under which the *Chesapeake* had been taken out of the harbor of Sambro, a Nova Scotian port, and brought into this harbor. Commander A. G. Clarey, of the United States gunboat *Dacotah*, immediately accompanied Mr. Johnston (a clerk in the provincial secretary's office, by whom the letter to him had been delivered) to my house. An officer of the *Dacotah* having arrived a few minutes previously, together with Mr. Gunnison, the United States vice-consul, Commander Clarey explained that he had sent an officer on shore to report their arrival to the head of the government, but that he had been detained at the consulate by urgent business. He also apologized for the omission on the part of the gunboat *Ella* and *Annie* to report herself when coaling a few days previously, and made further explanations to which it is not necessary to refer, as they were substantially embodied in his official answer to the letter which had been addressed to him.

10. On the same evening the provincial secretary received a reply explaining that Commander Clarey had intended to comply with all the proprieties required in British ports; that the men-of-war under his control were the United States steamers *Dacotah* and *Ella* and *Annie*; and that he had entered this harbor for the purpose of delivering the *Chesapeake* to the British authorities, or to take her to the United States to deliver her to the United States government or to the owners, upon the faith, if any difficulty should arise, to make restitution to the British authorities. It was further stated that the crew of the *Ella* and *Annie*, under the command of Acting Lieutenant J. F. Nichols, had seen a flag of distress of the United States flying from a steamer in the harbor of Sambro, had borne down to afford relief, and found she was the *Chesapeake*, in the possession and control of five of her original crew, by whom they were informed that the pirates had abandoned her, and the steamer was without coals; and Commander Clarey further stated that under the circumstances he considered it prudent to put into Halifax to place himself in communication with the British authorities and the United States government.

11. On the morning of the 18th instant the provincial secretary, by my direction, replied to Commander Clarey that I was prepared to take legal charge of the *Chesapeake*, but could not consent to her removal from the port without further investigation by the properly constituted authorities.

12. Immediately after the transmission of that letter information under oath was submitted to my government that an armed crew from the United States gunboat *Ella* and *Annie* had forcibly taken possession of a schooner belonging to this port, and made prisoner a man found therein, placed him in irons, and removed him to their own ship, and that two other men, citizens of Halifax, who had joined the *Chesapeake* the day previously in the harbor of Sambro, were now detained prisoners on board a United States man-of-war.

13. Without a moment's loss of time a second letter was despatched to Commander Clarey by the provincial secretary, stating that information having been received that prisoners had been made of individuals in the harbor of Sambro, a Nova Scotian port, by men-of-war under his command, I could not permit any

United States vessel to leave this port without due investigation of these allegations of the violation of international law.

14. About an hour after that letter was despatched a letter was received from Commander Clarey, agreeing to immediately hand over the Chesapeake to the authorities directed to receive her, so soon as he was notified of the time and place, and also to deliver up one of the pirates named George Wade, who he stated was concerned in the illegal seizure of the Chesapeake, and was taken out of a schooner attempting to coal the Chesapeake, and had been identified by the witnesses who had arrived in the United States gunboat *Acacia* that morning, also two men found on board the steamer *Chesapeake* when she was delivered to the officer in command of the *Ella* and *Annie*, and who had been identified by the party who delivered up the steamer to the said officer, as in the employ of the pirates.

15. In about an hour after the receipt of this letter from Commander Clarey, another letter was addressed by him to the provincial secretary, saying he would be glad to learn whether, after the explanation given, and the offered rendition of persons termed prisoners in the note he had received, it was consistent with the friendly relations existing between the British government and the United States government that United States ships having come into the port of a neutral power for a purpose previously explained, and offering to render up to the proper authorities persons termed prisoners, should be detained if the officers thereof should wish to report themselves to their own government.

16. To these two communications from Commander Clarey the provincial secretary, in a letter, replied that I. J. Sawyer, high sheriff of the county of Halifax, had been commissioned to receive George Wade and the two other men referred to in Commander Clarey's first letter of that date, at the Queen's wharf, at one o'clock on the next day, where they would be amenable to the action of any person desiring to proceed legally against them. That Captain O'Brien, of the revenue schooner *Daring*, had also been duly authorized to receive possession of the *Chesapeake* at two o'clock p. m. of the same day, where she lay at anchor, to be adjudicated upon by proper authority. That I was most anxious to preserve to the utmost of my power the friendly relations existing between the American and British governments, but could not but feel that a grave infraction of international law had been committed by the men-of-war then in the harbor bearing the flag of the United States; that irrespective altogether of the taking of the *Chesapeake* in the harbor of Sambro, a forcible entry had been made of a British schooner in that port, a man therein being made prisoner and retained in Commander Clarey's custody, together with two citizens of the place found on board the *Chesapeake*, and that without any report having been made of such grave transactions either in his personal interview with me, or in his first official report in writing, in which he had professed to explain for my information the object of his visit, and the circumstances connected with taking the *Chesapeake*, nor until after a notification had been forwarded to him that applications respecting these prisoners had been made to this government. Commander Clarey was also reminded that the second letter from the provincial secretary on the 18th instant had been sent to him before the first letter of that day had been received. I then sent a telegram to Lord Lyons informing him how matters stood.

17. About noon on Saturday the letter was received from Commander Clarey, in which he stated that his first communication of the 18th instant was written and enclosed before the second letter from the provincial secretary of that day had been received by him. Commander Clarey's letter also covered a copy of the correspondence between Lord Lyons and the Secretary of State at Washington, and intimated that it might alter my determination as previously communicated.

A reply was sent without delay, after consultation with the government, in

which Commander Clarey was informed that my determination respecting the delivery of the Chesapeake and rendition of the prisoners was still adhered to.

19. During the morning of the 19th instant, Mr. Gunnison, the vice-consul, made a requisition on the part of the United States government for the apprehension and extradition of George Wade and others charged with piracy, and causing illegally the death of Orin Shaffer, upon which I issued immediately another preliminary warrant, and the mayor of the city, upon the depositions of some of the original crew of the Chesapeake, issued his warrant for the apprehension of Wade and the other parties named, which warrant was placed in the hands of the police constables to be served upon Wade after he had been released by the government commissioner who was to receive him.

20. About half-past one o'clock, the prisoners Wade and the other two men, named Henry, belonging to this city, were brought on shore handcuffed, and delivered to the government commissioner, at whose request the United States officer in charge removed the handcuffs, when Mr. Sawyer, the commissioner, in conformity with the instructions received, declared the prisoners free.

21. The officer of the main guard had by my direction prevented any but peace officers and respectfully dressed citizens from entering to the Queen's wharf, which is a very large one, and, from the best information I can obtain, I do not think that a hundred persons were present, and those respectable citizens, men of the commissariat stationed there, and the American boat's crew.

22. Very soon after the prisoners had been declared free, a gentleman present beckoned to two fishermen in a boat near the ship to come in, which they did, and Wade was directly after taken on board and the boat moved off. The police constable charged with the arrest immediately rushed to the water's edge, and presenting a pistol, threatened to fire unless they came back, when he was prevented by parties present, who seized upon him, and told the boat to row off, which it did, and was soon out of sight.

23. The provincial secretary having very shortly after brought to my notice the letter from Mr. Gunnison complaining that the service of the warrant against George Wade had been prevented, by the citizens of Halifax interfering with the police, a letter was instantly despatched by my direction to his worship the mayor, desiring him to use every exertion to execute the warrant, and offering to place any force he might require at his service for that purpose.

24. The mayor replied, expressing his deep regret that his officers had been unable to execute the warrant, and that although the vice-consul had, in a letter, notified to him that the United States government did not wish any further services from the police of this city, he should still use every exertion in his power for the service of the warrant.

25. On Saturday, the 19th instant, after the Chesapeake and prisoners had been delivered up by Commander Clarey, I received from Lord Lyons a telegram informing me that when he advised me of the correspondence of the Secretary of State and himself, he was ignorant of the circumstances mentioned in my telegram to him of the 18th instant.

26. In response to my application into the cause of this failure to serve the warrant, his worship forwarded the reports of the city marshal and a policeman who was specially charged with the execution of this duty.

27. From the foregoing detail of the principal circumstances connected with this transaction, and the correspondence which has taken place in relation to it, I trust it will appear that while the honor and dignity of the British crown have been jealously maintained, I have been sedulously careful to avoid any just cause of offence to the government of the United States. Although the information furnished by the telegrams to the United States vice-consul, as has been seen, showed that Braine had exhibited a commission from the confederate authorities, a preliminary warrant was granted for his apprehension as soon as the application was formally made for it under the treaty, and it having been

vaguely stated that Braine had been rescued after arrest in the country, I commissioned an inquiry into the facts, the report of which has not yet arrived.

The flagrant violation of neutral rights committed by the United States men-of-war in thus taking the Chesapeake and making prisoners, not only in our harbor, but on board a British vessel, rendered it imperative that I should demand the unconditional surrender by them both of the Chesapeake and the prisoners they had taken, and so long retained without making any communication upon the subject to the government.

The outrage upon British authority in the capture made on board one of our schooners rendered it equally necessary that I should discharge him from custody before any warrant even under the extradition treaty could be served upon him, and his escape from subsequent apprehension could not have been anticipated by me, as the place where the rendition occurred was most unfavorable for such escape.

I have, &c.,

HASTINGS DOYLE.

[Enclosure 1 in No. 5.]

Mr. Gunnison to the Provincial Secretary.

CONSULATE OF THE UNITED STATES,

Halifax, Nova Scotia, December 10, 1863.

SIR: Information having been received at this consulate of the seizure of the American steamer Chesapeake by a band of pirates, and murder having been committed, I beg to request of the government, should such vessel (or any one connected with her) enter any of the ports of this province, that she be detained, and the parties implicated arrested and held to answer any charges that may be preferred against them.

I have, &c.,

N. GUNNISON, *Vice-Consul.*

[Enclosure 2 in No. 5.]

[Telegrams:]

Mr. Washburn to the American Consul.

BOSTON, *December 9, 1863.*

Steamer Chesapeake taken by pirates is on your coast. Give all information you may have immediately to collectors of Portland, Boston, and Eastport.

I. WASHBURN, JR., *Collector of Portland.*

Mr. Seward to Mr. Gunnison.

WASHINGTON, *December 9, 1863—1.30 p.m.*

Is the steamer Chesapeake, or has she been, in your port? Please answer.

WILLIAM H. SEWARD.

Mr. Howard to Mr. Jackson.

ST. JOHN, *December 9, 1863.*

You are instructed by Secretary Seward to use your best efforts to secure detention of Chesapeake and arrest of criminals. I now learn that she will proceed to Shelburne.

J. Q. HOWARD, *United States Consul.*

Mr. Leach to Mr. Jackson.

ST. JOHN, *December 10, 1863.*

I am informed by the Secretary of State that steamer Chesapeake, of Portland and New York line, has been taken possession of by supposed insurgents on board, off Cape Cod, the second engineer killed, and the captain landed at St. John, New Brunswick. We are instructed to use our best efforts to cause the arrest of the criminals, and the detention of the steamer. Am requested to inform you she has not been seen here.

C. O. LEACH, *United States Consul.*

—
A. L. to Mr. Chun.

YARMOUTH, *December 10, 1863.*

A steamer said to be of similar appearance to Chesapeake passed this harbor about noon yesterday, steering down the bay.

A. L.

—
Mr. Washburn to Mr. Jackson.

PORTLAND, *December 11, 1863.*

Cargo of Chesapeake was owned entirely by American and Canadian merchants, and was not intended to run blockade. Advise authorities of fact, as the piracy was projected in St. John. I suppose they will not permit Chesapeake to leave their ports.

ISRAEL WASHBURN, JR., *Collector.*

—
Mr. Washburn to Mr. Gunnison.

PORTLAND, *December 12, 1863.*

Deposition of Charles Johnson, mate of the Chesapeake, taken by United States commissioner, proves conclusively the murder of Orin Shaffer, second engineer, on the morning of December 7, by the pirates who took possession of the steamer. I send the depositions by mail.

I. WASHBURN, JR., *Collector.*

—
Mr. Seward to Mr. Gunnison.

WASHINGTON, *December 12, 1863.*

Your despatch to Lord Lyons on the subject of the Chesapeake received. He will adopt all proper measures in regard. The United States attorney for Maine will be instructed to take depositions with a view to the extradition of the offenders.

WILLIAM H. SEWARD.

—
Mr. Davis to Mr. Gunnison.

LIVERPOOL, *December 14, 1863.*

Followed John C. Braine to Petit Rivière and arrested him; he showed a lieutenant's commission from Jeff. Davis; letter of marque and instructions to capture the steamer. The citizens interfered and prevented me taking him or

holding him as a prisoner. They landed goods at Shelburne Saturday. I think some were put aboard schooner, and will be brought to Halifax. Braine will probably leave Petit Rivière this morning for Halifax. He cannot get there before night. There are probably parties at Halifax, Shelburne, Yarmouth, St. John, Grand Manan, Musquash, and other places, concerned in the affair. I think most of the goods are out of the Chesapeake before this.

JOSEPH D. DAVIS.

—
Mr. Merrill to Mr. Gunnison.

YARMOUTH, December 14, 1863.

Steamer Chesapeake hovering along shore east of Shelburne Saturday night; her purser started by land for Halifax. Gunboat passed here last night four o'clock bound east.

J. M. MERRILL,
United States Consular Agent.

—
Mr. Farrar to the United States Consul.

BARRINGTON, December 14, 1863.

She lies behind Blue island, near Jordan, out of sight, discharging cargo into lighters, and waiting for coals.

A. F. FARRAR.

—
[Enclosure 3 in No. 5.]

Affidavit of Nathaniel Gunnison.

PROVINCE OF NOVA SCOTIA, HALIFAX, 1863.

I, Nathaniel Gunnison, of the city of Halifax, in the county of Halifax, in the province of Nova Scotia, esquire, make oath and say, as follows:

That I am vice-consul to the American government in this port, and as such act in the absence of Mr. M. Jackson, consul for such government.

That, on or about the 7th day of December instant, the steamship Chesapeake, an American registered steamship, plying between the cities of Portland and New York as a freight boat, and having on board, to the best of my knowledge and belief, property belonging to British citizens, was seized by a number of persons who went on board said steamship at New York, representing themselves to be passengers, and when on board said steamship, and while the said steamship was prosecuting her voyage to Portland, and had reached the neighborhood of Cape Cod, rose up against the master and crew of the said steamship, overpowered them, took command of the said steamship, and murdered the chief engineer.

That the persons who committed these acts were in number sixteen; that one of the said number was named John C. Braine, who is now representing himself as the captain thereof, and that the said steamship, commanded by the said John C. Braine, was recently in Shelburne harbor, in the county of Shelburne, and Petit Rivière, in the county of Lunenburg, the province aforesaid, as I have been informed and verily believe such information to be true.

That the facts herein stated were communicated to me as such acting vice-consul, by telegram, and I verily believe the contents and the statements here and therein contained to be true.

That I am desirous, as such acting vice-consul, of obtaining the assistance of

the government of this province in taking such steps as will cause the said steamship to be arrested and detained, as I am informed that the said steamship is now at Margaret's bay, in the county of Halifax, and I verily believe such information to be true.

NATHANIEL GUNNISON, *Vice-Consul.*

Sworn at Halifax, this 14th day of December, A. D. 1863, before me.

J. JENNINGS, J. P.

[Enclosure 4 in No. 5.]

Mr. Tupper to Mr. Gunnison.

HALIFAX, NOVA SCOTIA, *December 14, 1863.*

SIR: I have it in command from his honor the administrator of the government to inform you, in reply to your communication respecting the Chesapeake, that the question has been referred to the crown officers, and that they are of opinion that they do not see upon what grounds, as at present informed, they can legally interfere.

I have, &c.,

C. TUPPER, *Provincial Secretary.*

[Enclosure 5 in No. 5.]

Mr. Harley to the Receiver General.

CUSTOM-HOUSE, LA HAVRE, *December 14, 1863.*

SIR: I understood this morning that a steamer lay opposite Mr. William McKenny's wharf, about five miles from this place. I went down and boarded her. The captain reported that she was a confederate war steamer, sailing under commission from the authorities of the Confederate States, which he produced:

Date of commission, November 1, 1862; name of vessel, Retribution; tonnage, 480; guns, 2; number of men, 30; first lieutenant, John C. Braine; second lieutenant, Henry A. Parr.

The captain, John Parker, stated that he was under the necessity of putting into harbor for a supply of fuel and other necessities, to purchase which he wished to land certain articles, as he had no money, which I permitted him to do, placing a competent person on board, acting under my instructions, to see that nothing else was landed, to protect the revenue, and to receive his light duties.

As the case is a novel one to me I feel anxious to know whether my proceedings met with your approbation, and beg leave to ask for instructions to guide me in any future similar case which may arise.

The vessel will sail to-morrow.

I have, &c.,

JOHN HARLEY, *Collector.*

[Enclosure 6 in No. 5.]

Mr. Harley to the Receiver General.

CUSTOM-HOUSE, LA HAVRE, *December 18, 1863.*

SIR: The Chesapeake sailed about 9 a. m. on Wednesday.

She has landed here by permit twenty-five bales of cotton, ten half-casks (300 gallons) of port wine, and a church bell, entered as worth \$100.

I placed a confidential person on board of her to see that nothing was landed without my knowledge, and remained on board nearly two days myself.

She sailed at 6 p. m. on Tuesday, with the ostensible purpose of going to sea, when my officer returned and reported to me about 9 p. m.

On Wednesday morning I despatched a constable to follow her down the river, with instructions to board her and remain if she were still in port; he returned in the afternoon and stated that she had left as above.

The constable, who provided himself with a horse and wagon, has charged 7s. 6d. for his services.

The young gentleman who acted as my lieutenant (two days and one night) will, I doubt not, be satisfied with whatever you may think proper to award him.

The officers appeared to be solicitous to give no offence to the government, and expressed their willingness to abide by the regulations of the port.

I am, &c.,

JOHN HARLEY, *Collector.*

[Enclosure 7 in No. 5.]

Warrant.

HALIFAX, ss., *Province of Nova Scotia*, ———, 1863.

I, Hastings Doyle, administering the government of the province of Nova Scotia: to all justices of the peace and other magistrates and officers of justice having power to commit for trial persons accused of crime against the laws of Nova Scotia, send greeting:

I, the said administrator of the said government of this province of Nova Scotia, acting in virtue of and in obedience to the requirements of an act of the imperial Parliament of Great Britain and Ireland made and passed in the sixth and seventh years of the reign of our sovereign lady Queen Victoria, entitled "An act for giving effect to a treaty between her Majesty and the United States of America for the apprehension of certain offenders," do hereby signify and make known to you that by authority of the said United States, in pursuance of and according to said treaty, which in the said act of Parliament is in part recited, requisition in writing has been made to the following effect, that is to say:

"HALIFAX, *December 16, 1863.*

"I, Nathaniel Gunnison, of the city of Halifax, in the county of Halifax, esquire, vice-consul of the United States of America, acting as consul in the absence of M. M. Jackson, consul, request of the government of Nova Scotia that they will give to the government of the United States all the assistance and co-operation in their power towards the apprehension of John C. Braine and the crew under his control, who have been guilty of an act of piracy in seizing unlawfully the steamer Chesapeake, an American steamship, off Cape Cod, and in causing, while so seizing illegally, the death of Orin Schaffer, second engineer on board said steamship, by shooting him. That I request the assistance of the government of Nova Scotia by virtue of being the acting consular officer in this city and province, and upon the request of the government of the United States communicated to me by the honorable W. H. Seward, that the said John C. Braine and his crew are offenders against the laws of the United States, and that they are now seeking an asylum in the province of Nova Scotia in order to protect themselves and evade the laws of the United States and the punishment of crimes committed within the jurisdiction of the United States, and of crimes as well against the laws of the United States as against the laws of Great Britain and her colonies and dependencies, and I now request the as-

sistance of the government and authorities of Nova Scotia by virtue of the provisions of the treaty commonly called the Ashburton treaty, and made between Great Britain and the United States, and I request the government and authorities of Nova Scotia to consider this as a requisition required by the said treaty from the United States government.

"NATHANIEL GUNNISON,
"Vice-Consul, Acting Consul of the U. S. Government."

And I require you and each of you within your several jurisdictions to govern yourselves accordingly, to the end that the said John C. Braine and other the persons in the said requisition, accused as aforesaid, may be arrested and dealt with according to the provisions of the said treaty.

Given under my hand and seal at Halifax, in the said province, this 17th day of December, A. D. 1863.

HASTINGS DOYLE,
Administrator of the Government.

[Enclosure 8 in No. 5.]

Mr. Tupper to commanding officers of United States ship Halifax, Nova Scotia.

PROVINCIAL SECRETARY'S OFFICE,
Halifax, Nova Scotia, December 17, 1863.

SIR: Three war steamers bearing the flag of the United States having arrived here, and no officer belonging to either of them having reported himself to the administrator of the government or the officer in command of the troops in this garrison, I have it in command from his honor the administrator of the government to inquire the names of the ships under your command, the object of your visit to this port, and the circumstances under which the steamship Chesapeake has been this day taken out of the harbor of Sambro, a Nova Scotian port, and brought into this harbor by men-of-war belonging to the navy of the United States.

I have, &c.,

C. TUPPER,
Provincial Secretary.

[Enclosure 9 in No. 5.]

Commander Clarey, U. S. N., to Mr. Tupper.

DACOTA, *Halifax, December 17, 1863.*

SIR: I have the honor to acknowledge the receipt of your communication of this date, and, in reply, I beg to state that I had no intention of not complying with all proprieties required in British ports, and have taken the opportunity of personally so stating to his honor the administrator of the government in an interview held with him this evening.

As to the reason demanded in your note for entering this harbor, I beg to state I have entered the harbor for the purpose of delivering the steamboat Chesapeake into the hands of the British authorities, or to take her to the United States and deliver her to the United States government or the owners, upon the faith, if any difficulty should arise, to make restitution to the British authorities.

With reference to the circumstances under which the steamship Chesapeake was taken out of the harbor of Sambro, I beg to state they are simply these: At 7 o'clock this morning a flag of distress of the United States was seen flying by the crew of the gunboat Ella and Annie, under the command of Acting Lieutenant J. F. Nickels. The Ella and Annie steamed down in order to afford relief, the lieutenant in command feeling it his duty to respond to such a signal from a vessel purporting to belong to the United States. When he reached the distressed he found it was the steamer Chesapeake in the possession and control of five of her original crew, by whom he was informed that the pirates had abandoned her, and the steamer was without coal. Under the circumstances of the case I thought it prudent to put into the port of Halifax, for the placing myself in communication with the British authorities and the United States government.

I have, in conclusion, to state the names of the United States gunboats under my control are United States steamer Dacotah and Ella and Annie.

I have, &c.,

A. G. CLAREY.

[Enclosure 10 in No. 5.]

Mr. Tupper to Commander Clarey.

PROVINCIAL SECRETARY'S OFFICE,
Halifax, Nova Scotia, December 18, 1863.

SIR: I am commanded by his honor the administrator of the government to acknowledge the receipt of your letter of yesterday, explaining the object of your visit to be for the purpose of delivering the steamer Chesapeake into the hands of the British authorities, or to take her to the United States and deliver her to the United States government, or to the owners, upon the faith, in any difficulty should arise, to make restitution to the British authorities; and in reply I have it in command to inform you that his honor is prepared to take legal charge of the steamship Chesapeake, but cannot consent to her removal from this port until further investigation by properly constituted authorities.*

I have, &c.,

CHARLES TUPPER,
Provincial Secretary.

[Enclosure 11 in No. 5.]

Memorial of Susan Henry.

The humble memorial of Susan Henry, wife of William Henry, of Halifax, Engineer, sheweth—

That her husband, the said William Henry, together with his brother Alexander Henry, were employed the day before yesterday to ship as engineers on board a steamer, and went shortly after to join her at the mouth of the harbor.

That your memorialist has since understood, and believes, that they have been unlawfully seized by the officers and crew of a steam-vessel said to be a United States man-of-war, called the Ella and Annie, and are now in confinement as prisoners on board one of the American men-of-war in this harbor.

That both William and Alexander Henry had returned to this port about a fortnight since from a previous voyage, their occupation being steamboat engineers, and they have not been absent from home since their return till they left the day before yesterday to join said boat.

That they are both British subjects, and reside in Halifax.

Your memorialist prays that your excellency will take steps to procure the immediate release of the said William and Alexander Henry.

SUSAN HENRY.

His Excellency Major General HASTINGS DOYLE, *Administrator of the Government and Commander-in-Chief of Nova Scotia.*

[Enclosure 12 in No. 5.]

Memorial of John E. Holt.

The memorial of John E Holt, shipmaster, humbly sheweth—

That he is a British-born subject, and is owner and master of the British schooner Investigator, belonging to the port of Halifax, where your memorialist resides.

That on the 16th day of December instant, while he was in command of his said vessel in British waters, to wit, in the harbor of Sambro, within the body of the county of Halifax, his said vessel was forcibly entered by the officers of a United States vessel-of-war, the particulars of which are detailed in the annexed affidavits, to which your memorialist begs leave to refer your excellency.

Your memorialist, having sustained the injury and insult therein described at the hands of a foreign man-of-war in British waters, looks to your excellency, as the representative of her Majesty and commander of her Majesty's forces in this province, for protection, and he prays that the outrage thus committed on him will meet with redress at the hands of your excellency.

And your memorialist, as in duty bound, will ever pray.

JOHN E. HOLT.

HALIFAX, December 18, 1863.

His Excellency Major General HASTINGS DOYLE, *Administrator of the Government of the Province of Nova Scotia, and Commander-in-Chief of the Forces of Her Majesty the Queen therein.*

[Enclosure 13 in No. 5.]

Affidavit of John E. Holt.

HALIFAX, ss:

I, John E. Holt, at present of the city of Halifax, master mariner, make oath and say: That when I left the steamer Chesapeake in Sambro harbor, where she was at anchor on the 17th day of December instant, and before she was boarded by the United States ship-of-war Ella and Annie, William Henry and Alexander Henry, both of the city of Halifax, engineers, were on board of the steamer Chesapeake, and I feel quite certain neither of them left her before she was captured, nor within two hours afterwards, as no boat could have left either the Chesapeake or the Ella and Annie within that time and reached the shore without my knowing of it, and seeing the persons in it.

JOHN E. HOLT.

Sworn to before me, at Halifax, this 18th day of December, 1863.

ARCH'D SCOTT, *Justice of the Peace.*

[Enclosure 14 in No. 5.]

Affidavit of John E. Holt.

HALIFAX, ss:

I, John E. Holt, at present of the city of Halifax, master mariner, make oath and say: That I am master and owner of the British schooner Investigator, registered at the port of Halifax, Nova Scotia.

That on the morning of the 17th day of December instant the said schooner was in the small harbor of Sambro, near Halifax, Nova Scotia, and a large steamer called the Chesapeake was at anchor in the said harbor about 200 yards from the shore, with six or seven men on board of her. That at about 7 o'clock a. m. I saw a federal man-of-war coming into the harbor, and when she came near I got under way, and, proceeding further up the harbor, came to an anchor about 400 yards from the Chesapeake, and about 200 yards from the shore. That the Chesapeake had no flag flying until the federal man-of-war was about 100 yards off, when a federal flag was hoisted at the peak upside down, but in two or three minutes, and before she was boarded, it was reversed and again hoisted. That the man-of-war (the name of which I have ascertained to be the Ella and Annie,) having the federal flag flying ran alongside of the Chesapeake, and made fast to her. About an hour after, a boat with an armed crew started from the Ella and Annie and came alongside of my schooner. I was below when they reached the vessel, but came on deck on hearing the noise they made coming on board. When I reached the deck, I found six or seven armed men there at work opening the hatches of my vessel. I then asked one of them, who appeared to be an officer, to show me his authority. He struck the pistol which was in his belt, and said that was his authority. I said I did not think he could overhaul my vessel in a British port; and then three of his men, cocking their pistols, pointed them at me and told me to hold my tongue. The officer then said he had a great mind to take me prisoner and take me to the States, as I would make a d—d good evidence. He then asked me if any of the Chesapeake's men were below. I said, "No," as I thought they had all gone on shore. They then opened the hatches and searched the vessel from one end to the other, and took away as prisoner one of the men of the Chesapeake who was asleep in the cabin in one of the berths, and a large quantity of trunks and baggage and other articles which had been put on board of my vessel by some of the men of the Chesapeake, and left the vessel. That the search was conducted throughout in a very rough and tyrannical manner, and a guard kept on deck all the time with cocked pistols. That at about half-past 11 o'clock a. m. I sailed from Sambro harbor in the said schooner, leaving the two steamers there. That I did not at the time know the name of the man that was taken from my vessel, but I have since been informed that his name is John Wade; and I further say that I am a British subject, born in Nova Scotia, and have never taken the oath of allegiance to any foreign state.

JOHN E. HOLT.

Sworn to before me at Halifax, this 18th day of December, A. D. 1863,

P. O. HILL,

Mayor, and Justice of the Peace.

[Enclosure 15 in No. 5.]

Affidavit of Daniel Murphy.

HALIFAX, ss:

I, Daniel Murphy, of Dover, in the county of Halifax, mariner, make oath and say: That I was one of the crew of the schooner Investigator, John

E. Holt, master, and was on board of her when she was in Sambro harbor on the 17th day of December instant; that I have heard the affidavit of the said John E. Holt, which is hereto annexed, read over to me, and I say that the statements made therein are true in every particular.

his
DANIEL + MURPHY.
mark

Sworn to before me at Halifax, this 18th day of December, 1863, having been first read over and explained,

P. C. HILL,
Mayor, and Justice of the Peace.

—
[Enclosure 16 in No. 5.]

Mr. Tupper to Commander Clarey, U. S. N.

PROVINCIAL SECRETARY'S OFFICE,
Halifax, Nova Scotia, December 18, 1863.

SIR: I have it in command from his honor, the administrator of the government, to inform you that information having been received that prisoners have been made of individuals in the harbor of Sambro, a Nova Scotian port, by men-of-war under your command, his honor cannot permit any vessel in the service of the United States government to leave this port until due investigation has been made into these allegations of the violation of international law.

I have, &c.,

CHARLES TUPPER,
Provincial Secretary.

—
[Enclosure 17 in No. 5.]

Commander Clarey, U. S. N., to Mr. Tupper.

"DACOTAH," HALIFAX, NOVA SCOTIA,
December 18, 1863.

SIR: I beg to acknowledge the receipt of your communication of this day, and in reply have to state that I shall immediately hand over the steamer Chesapeake to the authorities directed by his honor, the administrator of the government, to receive her so soon as I have signified to me the authorities appointed to receive her, and the time and place, together with one of the pirates named George Wade, who was concerned in the illegal seizure (and who was taken out of a schooner which was attempting to coal the Chesapeake, and was found wrapped up in a buffalo robe) of the steamer from the citizens of the United States on the 7th instant, and who has been identified as a pirate by the witnesses who arrived here in the United States gunboat Acacia, from the United States, this morning; also two men found on board the steamer Chesapeake when she was delivered to the officer in command of the United States steamer Ella and Annie, and who were identified by the party who delivered the steamer to the said officer as being in the employ of the pirates.

I have, &c.,

A. G. CLAREY.

—
[Enclosure 18 in No. 5.]

Commander Clarey, U. S. N., to the provincial secretary.

"DACOTAH," HALIFAX, *December 18, 1863.*

SIR: Upon closing my reply to your first communication of to-day by command of his honor the administrator of the government, I therein proposed the

immediately delivering up the steamboat Chesapeake, and also the rendition to the proper authorities of certain persons who had been taken under circumstances mentioned.

Your second communication by command of his honor the administrator of the government I beg to acknowledge, in which you state "that information having been given that prisoners have been made of individuals in the harbor of Sambro, a Nova Scotian port, by men-of-war under your command, his honor cannot permit any vessel in the service of the United States government to leave this port until due investigation has been made into the allegation of this violation of international law."

I beg to refer you to my first communication of to-day.

I shall be glad to learn, after the explanation given and the offered rendition of persons termed prisoners in your note, whether it is consistent with the friendly relations existing between the British and the United States governments that the ships-of-war of the United States having come into a port of a neutral power for a purpose previously explained, and now offering to render up to the proper authorities persons termed prisoners, should be detained, if the officers thereof should wish to depart to report themselves to their own government.

I have, &c.,

A. G. CLAREY.

[Enclosure 19 in No. 5.]

Mr. Tupper to Commander Clarey, U. S. N.

PROVINCIAL SECRETARY'S OFFICE,
Halifax, Nova Scotia, December 19, 1863.

SIR: In reply to your letters of to-day, I have it in command from his honor the administrator of the government to inform you that J. J. Sawyer, esquire, high sheriff of the county of Halifax, has been commissioned to receive at the Queen's wharf, at 1 o'clock p. m. to-morrow, George Wade and the two other men referred to in your first letter of to-day, with any other persons, if such there be now in your custody, who may have been taken within British jurisdiction, when the individuals so surrendered will be amenable to the action of any person desirous to proceed legally against them. I have it also in command to inform you that Captain O'Bryan, of the revenue schooner Daring, has been duly authorized to receive possession of the steamboat Chesapeake at the place where she is now at anchor at 2 o'clock p. m. to-morrow, to be adjudicated upon by proper authority. I am at the same time commanded to inform you that his honor Major General Doyle, the administrator of the government, is most anxious to preserve to the utmost of his power the friendly relations existing between the United States and Great Britain, but he cannot but feel that a grave infraction of international law has been committed by the men-of-war now in this harbor bearing the flag of the United States. Irrespective altogether of the taking of the Chesapeake in the harbor of Sambro, a forcible entry has been made on board a British schooner belonging to this port, and a man therein made prisoner and retained in your custody, together with two other men, citizens of this place, who were found on board the Chesapeake, and this without any report of such grave transactions having been made either in your personal interview with, or your first official report in writing to, his honor, professing to explain the object and circumstances of your visit to this port, nor until after a notification had been forwarded to you by his honor's command that information to that effect had been given to this government.

It is unnecessary to state that the second note addressed to you to-day was

written and forwarded before the receipt of any intimation from you that you had in your custody or intended to surrender any prisoners.

I have, &c.,

CHARLES TUPPER,
Provincial Secretary.

[Enclosure 20 in No. 5.]

Commander Clarey, U. S. N., to Mr. Tupper.

"DACOTAH," HALIFAX, NOVA SCOTIA,
December 19, 1863.

SIR: I beg leave to acknowledge the receipt of your communication of the 18th instant, and hasten to answer so much of it as relates to the "forcible entry on board a British schooner in a British port, and a man therein made prisoner," &c., by informing his honor the administrator of the government that my first communication alluded to in your note was written and enclosed before yours was received. Also, that at the time of my personal interview with his honor the administrator the facts connected with the schooner were unknown to me also to the vice-consul for the United States.

I beg to enclose you a copy of the correspondence between Lord Lyons and the Secretary of State at Washington, William H. Seward, and of which I presume his honor the administrator of the government is fully apprized, and by me received this day, which perhaps may alter the determination of his honor the administrator of the government respecting the steamer Chesapeake.

I have, &c.,

A. G. CLAREY.

[For enclosure 21 in No. 5, Mr. Seward to Lord Lyons, December 18, 1863, see enclosure 6 in No. 3.]

[Enclosure 22 in No. 5, Lord Lyons to Mr. Seward, December 18, 1863, published elsewhere.]

[Enclosure 23 in No. 5.]

Mr. Tupper to Commander Clarey, United States navy.

PROVINCIAL SECRETARY'S OFFICE,
Halifax, Nova Scotia, December 19, 1863.

SIR: I am charged by Major General Doyle, the administrator of the government, to acknowledge the receipt of your letter of to-day, together with a copy of correspondence between Lord Lyons and William H. Seward, Secretary of State of the United States, and I am directed by his honor, the administrator, to say in reply that he is glad to be informed that your first communication of yesterday was written and enclosed before the receipt by you of my second letter of yesterday; and I am further commanded to inform you that his honor does not see any cause to alter his determination communicated to you last evening, respecting the disposal of the Chesapeake, and the prisoners now in your keeping.

I have, &c.,

CHARLES TUPPER,
Provincial Secretary.

[Enclosure 24 in No. 5.]

Requisition.

HALIFAX, NOVA SCOTIA,
December 19, 1863.

I, Nathaniel Gunnison, of the city of Halifax, and county of Halifax, esquire, vice-consul of the United States, acting as consul in the absence of M. M. Jackson, consul, request of the government of Nova Scotia that they will give to the government of the United States all the assistance and co-operation in their power towards the apprehension of Henry C. Braine, sometimes called John C. Braine, George Brooks, Henry A. Parr, George Sears, George Moore, Robert Cox, Gilbert Cox, James Kenny, George Wade, Robert Moore, and William Harris, of the United States of America, who have been guilty of an act of piracy in seizing unlawfully the steamer Chesapeake, an American steamship, off Cape Cod, and causing, while so seizing illegally, the death of Owen Shaffer, second engineer on board the said steamship, by shooting him; that I request the assistance of the government of Nova Scotia, by virtue of being the acting consular officer in this city and province, and upon the request of the government of the United States, communicated to me by the Honorable William H. Seward, that the said Henry C. Braine, sometimes called John C. Braine, George Brooks, Henry A. Parr, George Sears, George Moore, Robert Cox, Gilbert Cox, James Kenny, George Wade, Robert Moore, and William Harris, are offenders against the laws of the United States, and that they are now seeking an asylum in the province of Nova Scotia, in order to protect themselves and evade the laws of the United States and the punishment of crimes committed within the jurisdiction of the United States, and of crimes as well against the laws of the United States as against the laws of Great Britain and Ireland, and her colonies and dependencies, and I now request the assistance of the government and authorities of Nova Scotia by virtue of the provisions of the treaty commonly called the Ashburton treaty, and made between Great Britain and Ireland and the United States.

I have, &c.,

NATHANIEL GUNNISON,
Vice-Consul.

[Enclosure 25 in No. 5.]

Warrant.

HALIFAX, ss :

I, Hastings Doyle, administering the government of the province of Nova Scotia, to all justices of the peace, and other magistrates and officers of justice having power to commit for trial persons accused of crime against the laws of Nova Scotia, send greeting :

I, the said administrator of the said government of this province of Nova Scotia, acting in virtue of and in obedience to the requirements of an act of the imperial Parliament of Great Britain and Ireland, made and passed in the sixth and seventh years of the reign of our sovereign lady Queen Victoria, entitled an act for giving effect to a treaty between her Majesty and the United States of America for the apprehension of certain offenders, do hereby signify and make known to you that, by authority of the said United States, in pursuance of and according to the said treaty, which in the said act of Parliament is in part recited, requisition in writing has been made to the effect following, that is to say :

[See enclosure 24 in No. 5.]

And I require you, and each of you, within your several jurisdictions, to govern yourselves accordingly, to the end that the said Henry O. Braine, sometimes called John C. Braine, George Brooks, Henry A. Parr, George Sears, George Moore, Robert Cox, Gilbert Cox, James Kinney, George Wade, Robert Moore, and William Harris, persons in the said requisition accused as aforesaid, may be arrested and dealt with according to the provisions of the said treaty.

Given under my hand and seal, at Halifax, in the said province, the 19th day of December, A. D. 1863.

HASTINGS DOYLE,
Administrator of the Government.

[Enclosure 26 in No. 5.]

Mr. Gunnison to Mr. Tupper.

HALIFAX, NOVA SCOTIA,
December 19, 1863.

SIR: May I call the attention of his honor, the administrator of the government, to the fact that the persons mentioned in the official communication which passed between the officer in command of the United States navy in this harbor, through his honor the provincial secretary of Nova Scotia, were this day delivered to the proper authorities at half-past 1 o'clock.

A warrant was previously taken out, and at this time in the hands of a police officer for the purpose of apprehending George Wade, an offender against the laws of the United States, and one of the persons so delivered, and concerned in the piracy and murder on board the Chesapeake, and that the citizens of Halifax interfered with the officer attempting to execute the warrant and held him back from seizing George Wade, a pirate, and that Dr. Almon in particular, a prominent citizen of Halifax, prevented the officer from discharging his duty by holding him back.

I submit whether such conduct is in accordance with the friendly relations subsisting between the two powers and the treaty made by them for the extradition of criminals. May I request that, as the pirate George Wade has been prevented from being arrested by British subjects, his honor the administrator of the government will take steps for his apprehension, as he is now being rowed down the harbor in a boat by two fishermen.

I have, &c.,

NATHANIEL GUNNISON,
Vice-Consul.

[Enclosure 27 in No. 5.]

Mr. Tupper to the Mayor of Halifax.

HALIFAX, NOVA SCOTIA,
December 19, 1863.

SIR: I have it in command from his honor the administrator of the government to inform you that N. Gunnison, esq., vice-consul of the United States, has this moment advised his honor that the police officers of this city have been prevented by the citizens from executing a warrant against George Wade, charged with piracy and murder, and I am further commanded to desire you to use your best exertions for the service of said warrant, and to state that if the police force under your command is not sufficient therefor, his honor will place any force at your disposal which you may require in order that the law may not be obstructed in its execution.

A copy of Mr. Gunnison's application for assistance in the apprehension of George Wade is herewith enclosed.

I have, &c.,

C. TUPPER, *Provincial Secretary.*

[Enclosure 28 in No. 5.]

The Mayor of Halifax to the Provincial Secretary.

MAYOR'S OFFICE, HALIFAX, *December 19, 1863.*

SIR: I have the honor to acknowledge the receipt of your letter of this day's date. In reply, I beg to state that I deeply regret that any such occurrence should have taken place, but I am assured that the city marshal used every effort in his power to execute the process intrusted to him at the time referred to, and although unsuccessful on that occasion, I beg to assure you that every effort will continue to be made to apprehend the parties named in the process, notwithstanding that I have received a communication from the vice-consul of the United States informing me that he does not wish the services of the police in the matter any further.

I have, &c.,

P. CARTERET HILL.

[Enclosure 29 in No. 5.]

Mr. Gunnison to the Mayor of Halifax

HALIFAX, *December 19, 1863.*

SIR: As it is evident, from what has just transpired on the Queen's wharf, that the pirates of the Chesapeake cannot be arrested in this city, I therefore feel it incumbent on me to notify you that the United States government at present will not require the further services of the police of this city.

I have, &c.,

NATHANIEL GUNNISON,
Vice-Consul.

[Enclosure 30 in No. 5.]

The Mayor of Halifax to Mr. Hickman.

MAYOR'S OFFICE, HALIFAX, *December 21, 1863.*

SIR: I have the honor to enclose herewith a copy of the city marshal's report, to which I referred in my last letter of yesterday's date, for the information of his honor the administrator of the government.

I have, &c.,

P. CARTERET HILL.

[Enclosure 31 in No. 5.]

Mr. Hunt to the City Marshal

HALIFAX, *December 21, 1863.*

SIR: By your direction, and with a warrant under the hand and seal of the mayor, I proceeded to the Queen's wharf on the 19th day of the month, at one

o'clock, for the purpose of arresting George Wade, charged with murder and piracy. I was made aware that the said George Wade was then a prisoner on board of one of the United States gunboats now in the harbor, and would be brought on shore at that hour, and handed over to the sheriff.

I met the sheriff on the wharf, and told him that I had a warrant for Wade; he told me to give the prisoner two or three minutes after he released him before I arrested him. Met Dr. Almon on the wharf. Asked me my business; I told him, and showed him the warrant with the mayor's signature to it; he said it was a shame. I was standing at the head of the slip; then the United States man-of-war boat came to the shore with prisoners. I was then joined by policemen Hood and Burke and yourself. The slip is an inclined plane running down to the water, about fourteen or sixteen feet from the caprail of the wharf. The prisoner, Wade, was landed at the water's edge on the slip, and I went towards him; he was in irons, and on his landing on the slip his irons were taken off. I did not hear the sheriff say he was free, but heard some person say, "He is in the boat." I ran down the slip to the water's edge, and called upon the persons in the boat to bring the boat back, and presented a revolver, when they backed the boat. As the boat was backing to the slip I was seized round the arms by Dr. Almon, who told the men in the boat to go on; I was also handled by Alexander Keith, jr., who tried to get the pistol out of my hand, and also by Dr. Smith. Had it not been for the interference of Dr. Almon, Alexander Keith, jr., Dr. Smith, and others, I have no doubt but I could have secured the man Wade. With regard to the slip when the prisoner was landed, I would state that it runs down from the wharf some forty or fifty feet, and is more than twelve feet wide, and a crowd of persons were on it at the time. I wish further to inform you that when I presented my pistol at the boat which was carrying away Wade, I had the warrant for his arrest in my left hand, the pistol in my right, at the time I was seized by Dr. Almon.

I am, &c.,

LEWIS HUTT.

[Enclosure 32 in No. 5.]

The City Marshal to the Mayor of Halifax.



CITY MARSHAL'S OFFICE, HALIFAX,

December 21, 1863.

SIR: In obedience to the request of your worship, contained in your communication of the 19th instant, I have the honor to furnish a report of the circumstances connected with the attempted execution of the warrant against George Wade on Saturday last.

Having understood from the attorney of the American consul that George Wade was to be landed on the day in question at the Queen's wharf, I detached what I judged to be a sufficient police force to arrest and secure him when he was landed.

Between one and two o'clock a boat bearing the American flag, with the prisoner on board, who had irons on, landed at a confined and inclined slip, which is at the wharf where the sheriff of the county of Halifax and the consul of the United States of America were waiting to secure the prisoner.

The prisoners were then unshackled, and, as I have since understood, the sheriff said to them they were at liberty. When the prisoners were landed and unshackled, policemen Hutt, Hood, and Burke were on the slip and close to where Wade was standing.

As I had something to communicate to the American consul, I left the slip and went to the consul and his attorney, who were on the wharf, a short distance

from the slip. On turning round I perceived one of the prisoners in a fishing-boat, and I inquired of the consul who the person in the boat was; he informed me it was Wade. I at once rushed down to the slip, but my progress was impeded by the number of boatmen who were standing on the slip and near the bottom of it, and so blocked it up that before I could get near, the boat had gone out of reach, and made it impossible for me to arrest Wade. At this time I saw policeman Hutt, with a pistol in his hand, who commanded the return of the boat, but he was disregarded. Finding that it was impossible, for me to reach the boat by the slip, I ran on the wharf, thinking I could board the boat containing the prisoner from a commissariat boat, which was moored at the wharf without any one in her. I called upon the men in the boat which had Wade on board to return, but a number of voices from the wharf urged them to go on, which they did. Before the boat had got out of the dock, I requested the officer in charge of the United States boat which brought the prisoner on shore to come to my assistance, but this was neglected. On the fishing-boat getting beyond my reach, the crowd on the wharf cheered them. I have understood that the boat which conveyed Wade was in charge of Gallagher and Holland.

I beg to assure your worship that every possible effort was made in my power, and, as I believe, by the policemen present, to arrest Wade; but that, from the circumscribed space where he was landed, and the crowded state of the space, it was beyond the power of either myself or my men to do more than was done.

I have required the policemen to furnish a detailed report of the circumstances within their knowledge, which I have the honor to submit herewith.

I have, &c.,

GARRET COTTER.

No. 6.

Major-General Doyle to the Duke of Newcastle.—(Received January 6, 1864.)

GOVERNMENT HOUSE, HALIFAX, NOVA SCOTIA,

December 24, 1863.

MY LORD DUKE: My despatch to your grace of the 23d instant, and of same date to Lord Lyons, a copy of which is herewith enclosed, explains fully the action of this government in relation to the Chesapeake.

2. After the steamer left with my despatch to Lord Lyons, I received from his lordship a telegram dated December 22, stating that an official requisition had been made by the Secretary of State at Washington for the extradition, under the treaty, of John C. Braine and others therein named, charged with the crime of piracy and murder on board the United States steamer Chesapeake.

At the same time I received a second despatch, dated December 22, informing me that the United States government had intercepted a letter, which had excited apprehensions that the Chesapeake would be seized in this port by confederates, and inquiring when this government would give her up to the owners, on the requisition of the United States government.

To this I replied by telegram, that my government had decided to put the Chesapeake into the court of vice-admiralty, and that she could only be given up upon the order of that court, but that proper precautions had been taken for her safety.

3. A communication having been received by the provincial secretary from the United States vice-consul, also exhibiting anxiety respecting the Chesapeake, I directed a reply to be sent to Mr. Gunnison, informing him that no danger need be apprehended.

4. The legal questions connected with the Chesapeake will thus be judicially disposed of by a competent tribunal; and I have instructed the crown officers to take the necessary steps to bring to justice the parties charged with obstructing the execution of the warrant against Wade.

I have, &c.,

HASTINGS DOYLE.

[Enclosure 1 in No. 6.]

Major General Doyle to Lord Lyons.

GOVERNMENT HOUSE, HALIFAX,
December 23, 1863.

MY LORD: The unexpected arrival of the steamer from England compels me to send, for the information of your lordship, a copy of a despatch which I had prepared for transmission to his grace the Duke of Newcastle, instead of a full report which I had intended to prepare upon the subject of the Chesapeake and matters connected with her, especially for you. I may add, that the government had decided to put the Chesapeake in the court of vice-admiralty here for the purpose of obtaining a judicial decision upon every question arising in connection with her.

Your telegram, received late last evening, will be placed in the hands of my government this morning, when, after receiving their advice, based on the opinion of the crown officers, I will reply by telegraph to the proposal you have communicated from the honorable W. H. Seward to have the Chesapeake delivered to the owners upon the requisition of the United States government.

As at present advised, I do not see how the Chesapeake can properly be delivered up except upon an order from the court of vice-admiralty; but I presume it will be quite competent for that court to surrender her to the assumed owners, upon their giving the necessary bail to abide the ultimate decision of this court.

I trust I need not assure your lordship of the very deep anxiety I have felt throughout this very complicated question to keep steadily in view your lordship's opinion that as much as dignity, humanity, and law warrant should be done to content the government of the United States, but of course no more.

I have, &c.,

HASTINGS DOYLE.

[Enclosure 2 in No. 6.]

Mr. Gunnison to Mr. Tupper.

CONSULATE OF THE UNITED STATES,
Halifax, Nova Scotia, December 23, 1863.

SIR: I beg to inform the government of this province that I have received information from my government of the fact that 1,000 rifles have been shipped from New York to Nova Scotia by the rebel agents for rebel purposes in Halifax. The fact is reported to me as certain.

I beg to call the attention of the government to the matter, and request that steps be taken by the proper authorities for the seizure of these arms.

I would further say, that I have reason to fear the reseizure of the Chesapeake by the pirates and their abettors in this province.

I have, &c.,

N. GUNNISON, *Vice-Consul.*

[Enclosure 3 in No. 6.]

Mr. Tupper to Mr. Gunnison.

PROVINCIAL SECRETARY'S OFFICE,
Halifax, December 24, 1863.

SIR: I have it in command from his honor the administrator of the government to say, in reply to your communication of yesterday, that proper precautions have been taken to insure the safety of the Chesapeake.

I have, &c.,

CHARLES TUPPER,
Provincial Secretary.

No. 7.

Lieutenant Governor Gordon to the Duke of Newcastle.—(Received January 6, 1864.)

FREDERICKTON, *December 21, 1863.*

MY LORD DUKE: Considerable excitement was created a few days ago in the city of St. John by the appearance off that port of the steamer Chesapeake, lately captured by persons professing to be officers and sailors in the service of the Confederate States of America.

2. The crew and passengers on board the Chesapeake were landed at St. John; and though full details of this transaction will reach your grace from other quarters, I enclose two versions of the capture, as reported by the crew and passengers landed at St. John, and published, the one in a newspaper which is generally looked on as the organ of the federal party in St. John, and the other in one of the many journals published in that city which advocate the cause of the Confederate States.

I have, &c.,

ARTHUR GORDON.

[Enclosure 1 in No. 7.]

Extract from the St. John, New Brunswick, Morning Telegraph, (confederate organ.)

CAPTURE OF THE CHESAPEAKE.—Another of those thrilling incidents which have characterized the war between the federals and confederates has occurred to create a profound sensation throughout our city, which will extend as far through the northern and southern States as telegraph-wires and newspapers can carry the intelligence.

The federal passenger and freight steamer Chesapeake, one of a line that plies regularly between New York and Portland, Maine, left New York harbor at 4 o'clock in the afternoon of Saturday last, with about twenty passengers (exclusive of the crew) and a valuable cargo. Everything went well until the steamer had been some eleven hours at sea—say 3 o'clock on Sunday morning—when fifteen of the passengers, who were then discovered to be confederates, rose on the crew, overpowered the latter, and took possession of the boat in the name of the Confederate States. This occurred about twenty-five miles west of Cape Cod. These confederates were under the command of Lieutenant Braine, of the confederate service, who was in St. John several months last summer, and when here boarded at the Waverley House. It is said that a

dozen shots were fired at Captain Willett, of the *Chesapeake*, none of which took effect. The first engineer was wounded; the second engineer, who was in charge of the engines at the time of the occurrence, was killed, and his body thrown overboard—one account says because it was suspected by the confederates that he was exhausting the steam in the boilers, and making other preparations to blow the vessel up. After the death of the second engineer, the first engineer was compelled to work the engines. The mate was wounded in the leg. The crew being secured, one of the passengers, Captain Osborne, of this port, who formerly sailed the *Fellow Craft*, was compelled to take the wheel and steer the vessel in the direction of the Bay of Fundy. The other passengers were kept below in the cabin, where they were at the time of the surprise. It is said that the vessel was seized during the weakest watch, and when there were only some five or six of the crew on duty. When the *Chesapeake*, under its new managers, had arrived up the bay, it hailed Mr. George Mulherrin's pilot-boat *Simonds*, and transferred the remaining passengers, some five or six, to her, taking her in tow. Opposite Musquash, New Brunswick, the *Chesapeake* slowed her engines, and finally stopped; and the confederates allowed those of the steamer's crew whom they had decided not to detain, just ten minutes to get into boats and go ashore, which they did with considerable agility. But while this was going on, a skiff put off from the shore, carrying on board the *Chesapeake* a confederate officer, who immediately took command of her. [Another account says he boarded her off Grand Manan.] The steamer then proceeded up to the mouth of our harbor and anchored below Partridge island yesterday (Wednesday) morning about 4 o'clock. Osborne, whose services were no longer required, was then sent ashore. The *Simonds*, with the passengers from the *Chesapeake*, arrived yesterday morning about 9 o'clock; Captain Willett also arrived in the *Simonds*. It is said on the streets that the *Simonds* took down a crew from this port to man the *Chesapeake*, under confederate colors; and that when the steamer arrived off Partridge island she was met by a vessel from which she received a supply of coal. It appears there was previously only coal enough on board the steamer to last twenty-four hours. It is also believed that several confederate gentlemen who had been in our city for a number of days back are missing, and the presumption is that they left in the *Chesapeake* yesterday morning. The officer who boarded the steamer at Musquash would probably convey information to Lieutenant Braine and his party of the exact state of matters off this harbor. It seems that the confederates carried off with them the first and third engineers and some of the firemen.

The above is the substance of statements made by Captain Osborne, who was obliged to play a part in the affair as well as the engineers, and by the American passengers on the steamer.

Since the above was in type, we have read the account of the affair as furnished by the *Evening Globe*, and have carefully compared the two narratives. They differ in some particulars; but as the greater portion of our information comes from a British subject, and an unprejudiced person, we consider it as correct as can be obtained under the circumstances. From the *Globe's* statement we make some quotations:

" * * The second engineer had charge of the engine at the time [of the seizure;] and the conspirators, apparently afraid from his movements that he contemplated either breaking down the engine or bursting the boiler, shot him down in cold blood, a ball passing through his neck and head; his body was afterwards thrown overboard. The first engineer, who hurried up to see what the trouble was, was in the act of stooping down to pick up his comrade, when somebody, with an oath, ordered him to desist, and immediately after he was fired at, the ball carrying away a part of his lip, and inflicting a severe wound. * * The attacking party was composed of sixteen persons, under command of Henry Braine. This Braine has been, we are told, in this city; and it is

also currently reported that the party rendezvoused here; they went on in the American boat to Portland, thence overland to New York. At New York Braine represented himself as an agent of some English steamboat company, and the courtesy of a free pass in the Chesapeake was extended to him. He requited this kindness in the way stated above. The second in command is named Parr, and he claims to be one of the officers who escaped with Morgan. * * Captain Willett says that the parties generally were poorly clad, and looked to be in straitened circumstances. He also says that he and his crew were robbed of nearly everything they possessed; the passage-money collected on the voyage was taken from him. The Chesapeake had very little coal, and a small amount of provisions. Braine said he would take the steamer to Wilmington."

The vessel and cargo are valued at 180,000 dollars. The passengers and crew of the Chesapeake are reported as stating here that the parties who seized the steamer included St. John and Carleton men, but no explanation is offered as to how they were able to recognize men whom they had never seen before as belonging to this city. An opinion also seems to prevail among their friends here that Captain Osborne was mixed up in the plot; and in proof of this they say that when Lieutenant Braine awoke him in the cabin and ordered him on deck, Osborne kicked the lieutenant. We presume that some allowance must be made for lacerated feelings under these circumstances. Every one, whether northern or southern in sympathy, must regret the shedding of blood in the affair. It is to be hoped that no person in this community has had anything to do with the capture.

[Enclosure 2 in No. 7.]

Extract from the St. John, New Brunswick, Daily Evening Globe, (federal organ.)

EXTRAORDINARY AFFAIR.—CAPTURE OF A FEDERAL STEAMER, AND HER ARRIVAL OFF ST. JOHN.—The steamer Chesapeake, Captain Willett, running between Portland and New York, as a passenger and freight boat, and somewhat famous as one of the steamers engaged with the Forest City in the capture of the men who stole the revenue cutter out of Portland harbor, left New York on Saturday last at 4 p. m., with a number of passengers. On Monday morning, at 1.30, when twenty miles north-northeast of Cape Cod, the officers and crew were overpowered by a portion of the passengers, and the vessel taken possession of in the name of the Confederate States.

It was in the morning watch, and of course the greater portion of the crew were in their berths. The first intimation the captain had of anything wrong was his being fired at two or three times from behind as he was going below. He thinks he was fired at nine times in succession, and wonders he was not killed. He escaped unscathed. He was then collared, a pistol put to his head, and his surrender demanded as a prisoner to the Confederate States. The second engineer had charge of the engine at the time, and the conspirators, apparently afraid from his movements that he contemplated either breaking down the engine or bursting the boiler, shot him down in cold blood, a ball passing through his neck and head; his body was afterwards thrown overboard. The first engineer, who hurried up to see what the trouble was, was in the act of stooping down to pick up his comrade, when somebody, with an oath, ordered him to desist, and immediately after he was fired at, the ball carrying away a part of his lip and inflicting a severe wound. The mate was hit by two balls, one in the arm and one in the knee; but is not dangerously wounded. All of the statements that we have heard concur in that no demand was made for the surrender of the vessel; no intimation of any kind given before the firing of the shot. The ruffians then spread themselves through the

vessel; the officers and crew, twelve or fourteen in number, were handcuffed; and the passengers, of whom there were six or eight, were given to understand that they would be allowed their liberty if they kept quiet.

The attacking party was composed of sixteen persons, under command of Henry Braine. This Braine has been, we are told, in this city, and it is also currently reported that the party rendezvoused here; they went on in the American boat to Portland, thence overland to New York. At New York Braine represented himself as an agent of some English steamboat company, and the courtesy of a free pass in the Chesapeake was extended to him. He requited this kindness in the way stated above. The second in command is named Parr, and he claims to be one of the officers who escaped with Morgan.

When the boat was taken possession of, Braine said they intended to go to St. John. Among the passengers was a man whose name we did not hear, belonging to this city. On ascertaining that he was acquainted with the Bay of Fundy, Braine compelled him to act as pilot. On Tuesday morning the Chesapeake stopped at Seal Harbor, or some other similarly named place in Grand Manan. Last night about 10 o'clock she came up near Partridge island, and a passing pilot-boat was hailed, ordered to come to, and the crew, wounded mate and passengers, put on board and brought to this city, where they arrived at 4 o'clock this morning. When Captain Willett was ironed, he urgently requested to be allowed to speak to the engineer; the request was not granted at first, but, yielding to his importunities, an interview was allowed him. His first instruction was to break down the engine, but here one of the party interposed, and threatened instant death to the engineer should he attempt anything of the kind. The engineer was not landed with the rest of the crew, but carried off to work the steamer, none of the party on board being acquainted with machinery. Braine said that he intended to have brought two engineers with him from New York, but they got drunk and it was impossible to get them on board. Captain Willett says that the parties were generally poorly clad, and looked to be in straitened circumstances. He also says that he and his crew were robbed of nearly everything they possessed; the passage money collected on the voyage was taken from him. The Chesapeake had very little coal, and a small amount of provisions. Braine said he would take the steamer to Wilmington. There was a report that the Chesapeake had obtained coal from a schooner in the bay, but all the evidence, so far as we could learn, is against this. It was also said that several parties here belonging to the Confederate States went off in the steamer this morning. The whole thing was undoubtedly premeditated, as southern Americans here have boasted, during the past two or three days in our hearing that something startling would soon take place, and this affair is thought to be but the beginning of some comprehensive scheme, the special object of which is as yet a mystery.

The killing of the second engineer was a cowardly act, and the whole thing, though evidencing some skill in the planning, lacks the higher qualities of courage or heroism to extenuate it.

The steamer and cargo are said to be worth \$180,000. There was a small amount of ammunition on board, but no ball. Emery and Fox are the agents of the steamer at Portland. The Church Witness to-day says that an officer in the confederate service who has been staying at the Waverley Hotel lately left the city yesterday afternoon in a pilot-boat.

The names of the crew landed here are as follows:

Isaac Willett, Captain; John P. Willett, Francis St. Clair, D. C. McAllister, David Hopkins, Albion Oslin, John Anderson, Peter Whalen, Thomas Hudkins, Richard Leisson, Joseph H. Curtis.

In the above are the names only of those at the Mansion House. We have not that of the wounded mate, nor those of two or three others of the crew.

No. 8.

Lord Lyons to Earl Russell.—(Received January 9, 1864.)

[Extract]

WASHINGTON, *December 29, 1863.*

I have the honor to transmit to your lordship a copy of a despatch from Major General Doyle, acknowledging the receipt of the telegram in which I inquired, at Mr. Seward's request, whether the Chesapeake could be made over at once to her owners if they applied for her, with the sanction of the United States government.

Major General Doyle has sent me copies of his despatch to the Duke of Newcastle of the 23d instant and its enclosures, giving a full account of the proceedings of the United States vice-consul and naval officers, as well as of those of the British authorities in Nova Scotia. The details of the events which grew out of the arrival of the Chesapeake in the waters of that province have been brought to my knowledge for the first time by these papers. I had not been without misgivings, but I confess that I was by no means prepared to learn that the violation of the territorial rights of Great Britain by the United States naval officers had been so flagrant and so serious, or the proceedings of those officers so violent and so unjustifiable, as they are now shown to have been. Mr. Seward was absent from Washington when the papers reached me, and he has not yet returned. He is, however, expected here to-morrow, and I shall, without a moment's loss of time, confer with him upon the intelligence which I have received. I have thought it better to be silent on the subject during his absence. The prisoners taken by the United States officers on British territory have been given up by them, and the Chesapeake has been handed over to the Nova Scotian authorities. The question, therefore, which now remains is, the nature and extent of the reparation due from the government of the United States for the wrong committed by its officers; and Mr. Seward announced beforehand, in his note of the 18th of this month, that if any authority had been assumed by officers within the waters or on the soil of Nova Scotia, the government of the United States would at once express its profound regret, and be ready to make amends which would be entirely satisfactory. The case being in this position, I think that it is prudent, and that it is due to Mr. Seward, that I should discuss the matter with him in a friendly and confidential manner before taking any further steps with regard to it.

[For enclosure in No. 8, Major General Doyle to Lord Lyons, December 21, 1863, see Enclosure 1 in No. 6.]

No. 9.

*Lord Lyons to Earl Russell.—(Received January 16, 1864.)*WASHINGTON, *December 31, 1863.*

MY LORD: With reference to my despatch of the day before yesterday's date, I have the honor to inform your lordship that Mr. Seward returned to Washington last night, and that I went to him this morning to confer with him upon the accounts which I had received since he left Washington of the proceedings of the United States officers in Nova Scotia in the affair of the Chesapeake. I related the events to him as they had really occurred, and said that I would not conceal from him that they had caused me a great deal of anxiety and distress.

I added, however, that, bearing in mind the assurances given beforehand in his note to me of the 18th instant, I had determined to wait for his return to Washington, in order to discuss the matter with him in a friendly and confidential manner, before taking any further steps.

Mr. Seward said that the subject was altogether a painful one. The spirit shown by the people of Halifax in rescuing one of the pirates, and the facts that Braine, one of the chief of them, and he believed several others, were themselves Nova Scotians, and that a large number of rifles had been sent by confederate agents to Nova Scotia, rendered it necessary for the United States government to consider seriously whether it would not be necessary to adopt extraordinary precautions with respect to intercourse with that colony. Mr. Seward added, that he could not be expected to state specifically the course the United States government would take with regard to the proceedings of its officers in the case of the Chesapeake, until he had had time to make himself acquainted with all the facts; that he would, however, apply himself to the subject immediately, and that I might at once state with entire confidence to her Majesty's government that the assurances which he had, by the President's order, given in his note, would be acted up to.

I have, &c.,

LYONS.

No. 10.

Lord Lyons to Earl Russell.—(Received January 19.)

[Extract.]

WASHINGTON, January 4, 1864.

I have the honor to transmit to your lordship copies of further correspondence with Mr. Seward and with Major General Doyle and Mr. Gordon, relative to the affair of the Chesapeake.

I waited upon Mr. Seward at the State Department the day before yesterday, and told him that I had lost no time in conveying to your lordship his assurances that the promises made in his note of the 18th ultimo would be punctually fulfilled. I said that I relied implicitly on these assurances, and that therefore I would not importune him by addressing a written remonstrance to him against the proceedings of the United States officers in Nova Scotia, nor run the risk of embarrassing him by making at present any specific demand on the subject. I would content myself for the moment with placing in his hands papers which would complete his information. He had, I observed, of course been furnished by the United States officers with copies of their correspondence with the Nova Scotian authorities. I would add copies of depositions which had been laid before the administrators of the government with regard to the proceedings of the United States naval officers, and copies of a correspondence with the Mayor of Halifax respecting the escape of Wade. These papers would, I said in conclusion, make him fully acquainted with all that had occurred, and enable him to act without delay upon the assurances given in his note.

Mr. Seward said that the course I proposed to take was very considerate and judicious; that he should be glad to receive the papers, and that he would promise me that they should be carefully examined, and that measures should be taken which would be entirely satisfactory to her Majesty's government.

Upon this, I put into Mr. Seward's hand copies of those enclosures in Major General Doyle's despatch to the Duke of Newcastle of the 23d ultimo which were marked M, X, Y, and AA.*

I send to-day to Major General Doyle copies of this despatch and of my despatches of the 24th, 29th, and 31st ultimo.

* Enclosures 11, 12, 13, 14, 26, 27, 30, and 31 in No. 5. Google

[Enclosure 1 in No. 10.]

Lieutenant Governor Gordon to Lord Lyons.

FREDERICKTON, NEW BRUNSWICK,
December 28, 1863.

MY LORD: I have the honor to acknowledge the receipt of your lordship's despatch of the 17th instant.

On the evening of the 22d instant I received your lordship's telegram informing me that the Secretary of State for the United States had demanded the extradition in the usual form of the parties therein named, and on the following morning I received a similar communication, accompanied by an official requisition from the United States consul at St. John.

I lost no time in directing the law officers of the crown in this province to prepare the form of a warrant under the act 6 and 7 Vict., cap. 76, for the apprehension of the parties named. Unfortunately, the attorney and solicitor general were both absent from Frederickton, and some delay necessarily ensued in consulting them. It was not till late on the evening of the 24th that the warrant was prepared; as soon as it was signed, I sent it down by express to St. John. Mr. Braine, however, (the only one of the parties implicated who, so far as I am aware, was known to be in this province,) is stated to have left St. John that morning.

Every exertion will no doubt be made to insure his arrest under the warrant just issued; should he remain in this province.

I have, &c.,

ARTHUR H. GORDON.

[Enclosure 2 in No. 10, Lord Lyons to Mr. Seward, January 4, 1864, published elsewhere in this volume.]

[Enclosure 3 in No. 10.]

Lord Lyons to Lieutenant Governor Gordon.

WASHINGTON, January 4, 1864.

SIR: I have the honor to acknowledge the receipt of your excellency's despatch of the 28th ultimo, and to transmit to you a copy of a note in which I have informed the Secretary of State of the United States that you have issued a warrant for the arrest of the persons implicated in the affair of the Chesapeake, whose extradition has been demanded by this government.

I have, &c.,

LYONS.

[Enclosure 4 in No. 10.]

Lord Lyons to Major General Doyle.

WASHINGTON, January 4, 1864.

SIR: I had on the 26th ultimo the honor to receive your excellency's despatch of the 23d ultimo, enclosing a copy of a despatch which you had addressed on

the same day to the Duke of Newcastle with regard to the affair of the Chesapeake. I beg your excellency to accept my best thanks for the full information which you have been so good as to send me respecting this affair.

The Secretary of State of the United States has repeatedly promised me that the assurance given in his note of the 18th ultimo shall be acted up to.

I have, &c.,

LYONS.'

[Enclosure 5 in No. 10.]

Lord Lyons to Major General Doyle.

WASHINGTON, January 4, 1864.

SIR: I have the honor to transmit to your excellency copies of four despatches which I have addressed to Earl Russell, with regard to the affair of the Chesapeake.*

These papers will make your excellency fully acquainted with the communications which I have had on the subject with the United States government since I had the honor to write to your excellency on the 21st ultimo.

I have, &c.,

LYONS.

No. 11.

Lieutenant Governor Gordon to the Duke of Newcastle.—(Received January 19, 1864.)

[Extract.]

FREDERICKTON, NEW BRUNSWICK,
January 1, 1864.

In my despatch of the 21st ultimo I had the honor to transmit to your grace such information as I had at that time received with respect to the seizure, by certain parties, of the United States steamship Chesapeake.

The administrator of the government of Nova Scotia has, I am aware, already transmitted to your grace a detailed report of all subsequent proceedings in reference to this vessel within the limits of his jurisdiction. It only remains for me to state to your grace what has taken place here in connexion with this subject since the date of my despatch of the 21st ultimo.

On the receipt of the intelligence of the capture of the Chesapeake in Washington, her Majesty's minister at that capital transmitted to me a telegraphic despatch, intimating the desire of the United States government for the detention of the Chesapeake and her captors, should she put into a port in New Brunswick.

On the morning of the 23d ultimo I received from Mr. Howard, the United States consul at St. John, the requisition and depositions of which I have the honor to enclose copies.

I felt no hesitation in granting the desired warrant upon the consul's requisition, and quite irrespectively of the depositions which accompanied it. It does not appear to me that my functions in such a case are in any respect judicial? and I hold that it is my duty, on the requisition of the proper authorities, to issue

the warrant which empowers the local magistrates to take cognizance of cases which would otherwise be without their jurisdiction. I apprehend that it is then the duty of the magistrate to proceed precisely as he would had the alleged offence been committed within the limits of this province, and to commit for trial or discharge from custody the parties accused according as the evidence laid before him may appear to warrant. I make this observation, because although the construction of the articles of the treaty of Washington and of the imperial act of 6 and 7 Vict., cap. 76, appears to me plain and evident, I am aware that a variety of opinions are entertained on this subject, and that many persons hold, first, that the lieutenant governor and other functionaries, mentioned in the first section of the act, exercise a judicial authority, and may grant or refuse the warrant according to the evidence laid before them; and secondly, that the warrant when issued is a positive order to arrest the parties named, for the purpose of delivering them up, and that the magistrate who acts under it has no discretion but to obey, and no power to examine witnesses or receive evidence to show why a committal should not take place. Both these views appear to me directly contrary to the plain language of the treaty and the act of Parliament, by which power is given me to enable the local magistrates to proceed—a power which I conceive I am bound to exercise when properly called on to do so; and in the event of the magistrate finding that the evidence laid before him is such as would induce him to commit the alleged offender for trial, had the offence been committed in this province, that I am then further bound to issue my warrant for his extradition and surrender to the judicial authorities of the United States.

Whilst, however, I had no hesitation in granting the warrant on the consul's requisition, I entertained some doubts how far I should be justified in directing the apprehension of persons who were not even alleged to be within this province, as it appeared to me very questionable whether I could, simply as a measure of precaution against their subsequent entry into the province at some future time, issue such a document.

I had in the mean while, learnt that three at least of the persons engaged in the seizure of the Chesapeake were in St. John, and accordingly any doubts which I might have felt on account of their absence as to the propriety of issuing the warrant were set at rest, and immediately on the solicitor general's arrival a warrant was prepared, founded on one issued by Sir William Colebrook, in the year 1845, when lieutenant-governor of this province. Of this warrant I have the honor to enclose a copy for your grace's information.

The warrant was sent down to St John the same night, and on the following day two of the parties, David Collins and James Mackinley, were apprehended under a warrant issued by Mr. Gilbert, the police magistrate at St. John. Mr. Braine, who was also named on the warrant, had left St. John that morning, and is believed to have returned to Nova Scotia. Another of the parties implicated, Linus Seeley, has, I understand, since been arrested in St. John.

The enclosed extracts from newspapers give, I believe, an accurate account of the proceedings before the police magistrate.

On the 1st instant I received from the honorable J. H. Grey, who has been retained to defend the parties, a letter of which, as well as of my reply, I have the honor to enclose a copy.

As the question how far the prisoners are entitled to copies of the requisition on which the warrant was issued is one of some importance, and also one on which great diversity of opinion is likely to exist, I have thought it right to consult the law officers of the crown before giving a definite answer to Mr. Gray.

[Enclosure 1 in No. 11.]

Mr. Howard to Mr. Tilley.

UNITED STATES' CONSULATE, ST. JOHN, NEW BRUNSWICK,
December 22, 1863.

SIR: I have the honor to address, through you, a communication to the lieutenant governor of the province, for the purpose of requesting that his excellency will be pleased to use the authority vested in him by the act of Parliament for giving effect to what is known as the Ashburton treaty, to the end that certain offenders may be apprehended and delivered up to justice.

You will please make known to his excellency that as an officer of the government of the United States, I am authorized by the executive department of that government to make a requisition upon him as the officer administering the government of the province, in order that certain persons believed to be guilty of the crime of piracy may be brought before the proper officers of justice, so that the evidence of their guilt or innocence may be heard and considered.

I have therefore the honor to request that, in accordance with the provisions of the said act of Parliament, his excellency will by warrant signify that a requisition has been made for the apprehension of John C. Braine, H. C. Brookes, David Collins, John Parker Locke, Robert Clifford, Linus Seeley, George Robinson, Gilbert Cox, Robert Cox, H. H. Parr, and James McKinney, and require that all justices of the peace and other magistrates within the jurisdiction of this province shall aid in apprehending the above-named persons accused of the crime of piracy, for the purpose of having them brought to trial.

I am, &c.

J. Q. HOWARD,
United States Consul.

[Enclosure 2 in No. 11.]

Deposition of Isaac Willets and Daniel Henderson.

PROVINCE OF NEW BRUNSWICK, *City and County of St. John, to wit:*

Isaac Willets of the city of New York, in the State of New York, United States of America, captain of the steamer Chesapeake, belonging to the United States of America, and Daniel Henderson, of the city of Portland, in the State of Maine, one of the said United States, second mate of the said steamer, severally make oath and say, and first this deponent, Isaac Willets, for himself saith: That he, this deponent, sailed in the said steamer from the said city of New York on Saturday, the fifth day of December instant, about four of the clock in the afternoon, bound for the city of Portland aforesaid, with passengers and general cargo, and continued on the voyage to Portland aforesaid, and nothing material to be related occurred until Monday morning, the seventh day of December instant; when, about one of the clock a. m. on the said morning, this deponent being asleep in his berth, the first mate of the said steamer, named Charles Johnson, came to this deponent's state-room and called this deponent, and told him that some one had shot the second engineer of the said steamer; that this deponent got up and went aft as soon as he could, and found the second engineer lying on the upper deck, with his legs hanging down the gangway up which he had come; that this deponent was in the act of stooping down to pick up the second engineer, when two persons fired at this deponent; that as this deponent was endeavoring to get to his pilot-house, several shots were fired at him, and when he opened the door to go into the said house, he was collared

by a person calling himself H. A. Parr, and a pistol was put to this deponent's face, and handcuffs were put on him, and they put this deponent in his room, and kept him there about an hour, and then took this deponent to the cabin and kept him there until daylight, when they brought the first mate and chief engineer to the same place, both of whom had been shot, the engineer in the chin and the mate in the knee and arm; that afterwards this deponent was permitted to go about the steamer under guard as a prisoner; that this deponent could not perceive any life in the second engineer when he stooped to pick him up, and afterwards said engineer was thrown overboard: that on Tuesday morning about seven of the clock, the said steamer came to anchor in Seal-Cove harbor, Grand Manan; that shortly after the steamer was anchored, several persons, not of the crew of the said steamer, took a boat and went ashore, and about the middle of the said day steam was got on the said steamer, and she was steered towards the harbor of St. John; that about three of the clock on the said Tuesday afternoon the captors of the said steamer took this deponent into his state-room, and compelled him to give up his money to them; the names of the persons who compelled this deponent to give up the said money, amounting to eighty-seven dollars, were John C. Braine, called colonel, and H. A. Parr, styled first lieutenant; that this deponent became acquainted with the names of the said John C. Braine and H. A. Parr from the order which was served by them upon this deponent, and the said H. A. Parr addressed the said John C. Braine as colonel; that about four of the clock in the afternoon of the said Tuesday the pilot-boat Simonds ran alongside of us, and the steamer was ordered to stop, which was done, and a man came on board, who had a conversation with the said John C. Braine, and afterwards returned to the pilot-boat, when John Parker, *alias* John Parker Locke, came on board of the steamer from the said pilot-boat, and then the steamer was kept on her course until she came to Dipper harbor, when the pilot-boat was taken in tow by the said steamer, and the said John Parker, *alias* John Parker Locke, said that he would give this deponent ten minutes to get on board the said pilot-boat; that all of the crew of the said steamer went on board the said pilot-boat, with the exception of the first and third engineers and three firemen, who were retained on board the said steamer; that this deponent saw the said steamer, in charge of her captors, continue on her way towards St. John, and this deponent was brought in the said pilot-boat to Partridge island, and from that to the city of St. John, in a ship's boat, where he arrived about four of the clock on Wednesday morning, the ninth day of December instant; that John C. Braine, David Collins, George Robinson, and H. A. Parr were four of the persons engaged in the capture of the said steamer Chesapeake, whose names this deponent knows; that the said John C. Braine was styled colonel, the said H. A. Parr first lieutenant, the said David Collins second lieutenant, and the said George Robinson sailing-master, and when the said John Parker, *alias* John Parker Locke, came on board he was styled captain; that there were fifteen persons in all engaged in the said capture, and this deponent does not know the names of the remaining eleven; that the said steamer, when she was captured by the said persons, was about twenty miles north of Cape Cod, and all of the said fifteen persons came on board of the said steamer as passengers at New York, bound for Portland as aforesaid, but without tickets and said that they had not time to procure tickets, and all but two of the said persons paid the usual passage money, and the said two promised to pay when they arrived at Portland. And the said Daniel Henderson for himself saith, that he was second mate on board the said steamer Chesapeake, on her passage from New York to Portland aforesaid, on the fifth of December instant; that about one of the clock on Monday morning, the seventh instant, the door of this deponent's state-room was broken open on board the said steamer, and four persons stood in the door, and ordered this deponent to get up and put his clothes on; that all of the said four persons had pistols in their hands; that after this

deponent got his clothes on they handcuffed him, and told him he was a prisoner to the Confederate States; that they refused to allow this deponent to see any person belonging to the said ship, but kept this deponent locked in his state-room in irons; that after this deponent had been locked in his room about ten minutes, he heard a man knocked down in the pilot-house, which adjoined this deponent's room, and then this deponent burst open the door of his room and fell on deck, when two of the captor's took this deponent by the hair and dragged him into the pilot-house, where he remained until seven of the clock on the said Monday morning; that at eight of the clock on the said morning they took this deponent to the cabin, where he was kept nearly all the time until the said steamer got to Grand Manan, when this deponent was ordered on deck to clear away the chain, so as to let go the anchor, and from Grand Manan this deponent came to St. John aforesaid, as stated by Isaac Willets, master of the said steamer; that Orin Schaffer, the second engineer of the said steamer, was missing from the said vessel when this deponent came on the deck of the said vessel on the said Monday morning, and this deponent heard several of the said captors, among others the said H. A. Parr, say that the said second engineer was killed, and had been thrown overboard; and this deponent further saith that the first mate, Charles Johnson, was shot in the right knee and the left arm, and the chief engineer, James Johnson, was shot in the chin, and retained on board the said vessel; that this deponent does not know the names of any others of the said captors, with the exception of the said H. A. Parr.

And these deponents, Isaac Willets and Daniel Henderson, both say that they are informed and fully believe that John C. Braine, H. C. Brookes, David Collins, John Parker Locke, *alias* John Parker, Linus Seeley, George Robinson, Gilbert Cox, Robert Cox, James McKinney, Robert Clifford, and H. A. Parr, were, amongst others, the captors of the said steamer Chesapeake, a steamer of the said United States, while on her passage from New York aforesaid to Portland aforesaid.

And these deponents further say, that the said persons above named, being passengers on board the said steamer, took forcible possession of the said steamer against the will of these deponents, and the other officers and crew of the said steamer.

The said Isaac Willets and Daniel Henderson were severally sworn to the foregoing affidavit of the twenty-second day of December, A. D. 1863, before me, the said affidavit having been first read over and explained to the said Daniel Henderson, he appearing perfectly to understand the same.

ISAAC WILLETS.

his
DANIEL + HENDERSON,
mark.

H. J. GILBERT

Police Magistrate for the City of St. John.

[Enclosure 3 in No. 11.]

Warrant.

By his excellency the honorable Arthur Hamilton Gordon, O.M.G., lieutenant governor and commander-in-chief of the province of New Brunswick, &c.

To all and every the justices of the peace and officers of justice within the province of New Brunswick, greeting:

Whereas in and by an act of Parliament made and passed in the sixth and seventh years of the reign of her Majesty Queen Victoria, entitled "An act for

giving effect to a treaty between her Majesty and the United States of America for the apprehension of certain offenders," it is among other things enacted "that in case requisition shall at any time be made by the authority of the said United States, in pursuance of and according to the said treaty, for the delivery of any person charged with murder, or assault with intent to commit murder, or with the crime of piracy or arson, or robbery or forgery, or the utterance of forged paper, committed within the jurisdiction of the United States of America, who shall be found within the territories of her Majesty, it shall be lawful for one of her Majesty's principal secretaries of state, or in Ireland for the chief secretary of the lord lieutenant of Ireland, and in any of her Majesty's colonies or possessions abroad for the officer administering the government of any such colony or possession, by warrant under his hand and seal, to signify that such requisition has been so made, and to require all justices of the peace and other magistrates and officers of justice within their several jurisdictions to govern themselves accordingly, and to aid in apprehending the person so accused, and committing such person to jail, for the purpose of being delivered up to justice, according to the provisions of the said treaty; and thereupon it shall be lawful for any justice of the peace, or other person having power to commit for trial persons accused of crimes against the laws of that part of her Majesty's dominions in which such supposed offender shall be found, to examine upon oath any person or persons touching the truth of such charge, and upon such evidence, as according to the laws of that part of her Majesty's dominions, would justify the apprehension and committal for trial of the person so accused of the crime of which he or she shall be so accused had been there committed, it shall be lawful for such justice of the peace or other person having power to commit as aforesaid to issue his warrant for the apprehension of such person, and also to commit the person so accused to jail, there to remain until delivered, pursuant to such requisition as aforesaid."

And whereas, in pursuance of and in accordance with the said treaty and act, a requisition has been made to me on behalf of the said United States by J. Q. Howard, consul of the said United States, in the city of St. John, in this province, stating that John C. Braine, H. C. Brookes, David Collins, John Parker Locke, Robert Clifford, Linus Seeley, George Robinson, Gilbert Cox, Robert Cox, H. H. Parr, and James McKinney, charged upon oath of Isaac Willett and Daniel Henderson with having committed the crimes of piracy and murder on the high seas within the jurisdiction of the said United States of America, on the seventh day of December instant, all or some of them are now in the city of St. John, within this province, and requesting that the said John C. Braine, H. C. Brookes, David Collins, John Parker Locke, Robert Clifford, Linus Seeley, George Robinson, Gilbert Cox, Robert Cox, H. H. Parr, and James McKinney may be delivered up to justice according to the provisions of the said treaty:

Now know ye, that, pursuant to the power in me vested in and by the said act of Parliament, I do hereby by this warrant, under my hand and seal, signify that such requisition has been so made, and hereby require and command all justices of the peace and other magistrates and other officers of justice of this province, within their several jurisdictions, to govern themselves accordingly, and to aid in apprehending the said John C. Braine, H. C. Brookes, David Collins, John Parker Locke, Robert Clifford, Linus Seeley, George Robinson, Gilbert Cox, Robert Cox, H. H. Parr, and James McKinney, so accused, and committing them the said John C. Braine, H. C. Brookes, David Collins, John Parker Locke, Robert Clifford, Linus Seeley, George Robinson, Gilbert Cox, Robert Cox, H. H. Parr, and James McKinney to jail, for the purpose of being delivered up to justice, according to the provisions of the said treaty; and hereof they will not fail at their peril.

Given under my hand and seal, at Frederickton, in this province of New Brunswick, this twenty-fourth day of December, in the twenty-seventh year of her Majesty's reign, A. D. 1863.

By his excellency's command.

J. L. TILLEY.

[Enclosure 4 in No. 11.]

Mr. Gray to Lieutenant Governor Gordon.

ST. JOHN, *December 31, 1863.*

MAY IT PLEASE YOUR EXCELLENCY: Two persons named David Collins and James McKinney having been arrested under warrant issued by the police magistrate, Mr. Gilbert, charged with piracy and murder in the matter of the steamer Chesapeake, which warrant recites a previous warrant issued by your excellency on the requisition of Mr. Howard, the American consul at this port, against the said persons and other persons named therein, and Mr. Weldon and myself having been retained to defend the prisoners, we have to request from your excellency, on their behalf, copies of the requisition made by Mr. Howard, and of any other papers, depositions, documents, or warrants laid before your excellency under the extradition treaty with the United States, on which your excellency's warrant was founded. I conceive the parties arrested are legally entitled to this information.

If not requesting too much, as the parties are to be brought up on Monday, the 4th of January next, I should feel obliged by your excellency's permitting me to have the copies before that time, and also that they may be certified as copies by your excellency.

I have, &c.,

J. HAMILTON GRAY.

[Enclosure 5 in No. 11.]

Captain Moody to Mr. Gray.

FREDERICKTON, *January 2, 1864.*

SIR: I am directed by his excellency the lieutenant governor to acknowledge the receipt of your letter of the 31st ultimo, in which you make application to his excellency to be furnished with copies of a warrant lately issued by his excellency under the extradition treaty with the United States, authorizing the arrest of certain persons therein named, as well as for copies of any application that may have been made to his excellency by the United States consul at St. John on this subject, and of the depositions by which such application may have been accompanied. I am further directed to inform you that his excellency will lose no time in consulting the law officers of the crown on the subject of your application, and his excellency's reply shall be communicated to you with the least possible delay.

I have, &c.,

HARRY MOODY.

No. 12.

Major General Doyle to the Duke of Newcastle.—(Received January 19, 1864.)

GOVERNMENT HOUSE, HALIFAX,

Nova Scotia, January 6, 1864.

MY LORD DUKE: On the 24th ultimo I had the honor to transmit to your

grace two despatches, dated 23d and 24th of December, respecting the Chesapeake.

The course then decided upon by my government, to place the ship in the court of vice-admiralty, has been carried out, and the advocate general having completed the necessary documents for that purpose, she has this day been put into that court.

I have further to inform your grace that I have caused all the goods landed from the Chesapeake in country districts of this province that could be found, to be seized and brought to this port, where they are now stored, and will remain subject to the decision of the court.

A formal requisition for the extradition of John C. Braine, H. A. Parr, John Parker Locke, *alias* Vernon G. Locke, David Collins, George Robinson, John Wade, and others, has been made through Lord Lyons by the Secretary of State at Washington, but no action has been taken upon it, as I had previously granted my preliminary warrant for that purpose upon the application of the United States vice-consul at this port.

None of the persons named in the requisition of the United States Secretary of State have been apprehended in this province, although every facility has been afforded by the government here for that purpose, even to granting military aid to the civil power upon the request of his worship the mayor of this city, as will be seen by reference to the annexed copies of letters from that functionary.

The persons accused of interfering with the arrest of Wade at the time he was surrendered by the United States authorities and discharged from custody were served with legal notice to appear before the proper authorities to answer that charge, and upon their application for time to prepare their defence their case was remanded until Monday, the 11th instant, when I have no doubt they will be required to give bonds for their appearance at the first sitting of the supreme court.

The commission issued by me to investigate the alleged rescue of Braine at Petite Rivière proves that at the time referred to no legal process had been taken out against him.

I herewith enclose a copy of a despatch from Lord Lyons, dated 21st December, and received by me on the 25th, and communicating the substance of an interview between the Secretary of State at Washington and his lordship.

In conclusion, I may add that I shall await with much anxiety the opinion of her Majesty's government upon the course which I have felt it my duty to adopt throughout this intricate matter, in which it has been my anxious endeavor to uphold the honor of the crown, and at the same time avoid any just cause of offence to the government of the United States.

I have, &c.,

HASTINGS DOYLE.

[For enclosure 1 in No. 12, Lord Lyons to Major General Doyle, December 21, 1863, see enclosure 8 in No. 3.]

[Enclosure 2 in No. 12.]

The Mayor of Halifax to Mr. Tupper.

MAYOR'S OFFICE, HALIFAX,
Nova Scotia, December 29, 1863.

SIR: I have received an intimation from the legal adviser of the United States consul that John C. Braine is expected to arrive in this city by the evening train from Truro this day at 6.30 p. m., coupled with a request that the warrant issued for his apprehension may be executed.

As there is reason to apprehend, from the occurrences of a previous day, that the police force under my control may not be sufficient for that purpose, and as in your letter to me of the 19th instant you state that in such an event his honor the administrator of the government will place at my disposal any force which may be required, I have now to request that you will obtain from his honor permission for a company of soldiers to aid me in carrying out the law.

I have, &c.,

P. CARTERET HILL.

[Enclosure 3 in No. 12.]

The Mayor of Halifax to Mr. Tupper.

MAYOR'S OFFICE, HALIFAX,
Nova Scotia, December 30, 1863.

SIR: I have the honor to request that you will convey to his honor the administrator of the government my thanks for the military aid so promptly afforded me yesterday in the intended arrest of John C. Braine.

I regret to say that the effort was unsuccessful, although no precautions were omitted for securing the object in view; I directed two policemen to proceed with the warrant to the Bedford station, (about nine miles from the town,) and to return to town by the evening train from Truro. If Braine should be a passenger, they were to arrest him and hand him over to the city marshal, who was directed to be at the terminus with a strong force to receive him.

I was present myself on the arrival of the train, as was also the city marshal, with the whole available police force, aided by a military party of sufficient strength to overcome any attempt at interference, should such have been contemplated.

I had requested the American consul to send some person to accompany the police who could identify Braine, and an engineer and fireman of the Chesapeake were accordingly sent for that purpose.

No passenger, however, could be found in the train, after a most thorough search, bearing any resemblance to Braine.

As it was possible that, for the purpose of misleading the authorities, he might have exchanged at one of the country stations from the Truro to the Windsor train, I thought it prudent to await the arrival of the latter, but with equally unsuccessful results.

I have, &c.,

P. CARTERET HILL.

No. 13.

Major General Doyle to the Duke of Newcastle.—(Received January 19, 1864.)

GOVERNMENT HOUSE, HALIFAX,
Nova Scotia, January 6, 1864.

MY LORD DUKE: With a view to keep your grace thoroughly acquainted with all the particulars concerning the affair of the Chesapeake, and in connexion with my despatch dated this day, I have the honor to transmit, for your information, the copy of a despatch which I have this day addressed to Lord Lyons on the subjects treated upon in the despatch to your grace which I have referred to above.

I have, &c.,

HASTINGS DOYLE.

[Enclosure in No. 13.]

Major General Doyle to Lord Lyons.

GOVERNMENT HOUSE, HALIFAX,
Nova Scotia, January 6, 1864.

MY LORD : I have the honor to acknowledge the receipt of your lordship's despatch of December 22, communicating the application of the honorable W. H. Seward, Secretary of State at Washington, for the extradition, under the treaty, of John C. Braine, H. C. Parr, John Parker Locke, *alias* Vernon G. Locke, David Collins, George Robinson, John Wade, and others, but upon which no action has been taken, as I had previously granted my preliminary warrant for the apprehension of the same persons upon the requisition of the vice-consul of the United States at this port.

I beg also to enclose herewith a corrected copy of my despatch of the 23d ultimo to his grace the Duke of Newcastle, to be substituted for the copy previously forwarded to your lordship, as some slight alterations were made in that document before it was forwarded to England. I also transmit, for your information, my second despatch of the 24th of December, forwarded to his grace by the same post.

As your lordship has been already addressed by telegraph, my government having decided to put the Chesapeake into the court of vice-admiralty precluded the adoption of any suggestion to dispose of her by the direct action of the government.

Surrounded as this matter is with complicated legal questions, the course thus taken to secure the decision upon them of a judicial tribunal will, I doubt not, meet with your approval.

Although no apprehension on the part of my government existed as to the safety of the Chesapeake from any attempt to interfere with her, I felt it my duty to take every precaution to put that beyond doubt by placing an armed party on board, and mooring her securely in Halifax dock-yard.

The advocate general has been engaged in completing the necessary papers, and she was this day handed over to the court of vice-admiralty.

I have further to inform your lordship that, having learned that goods had been landed from the Chesapeake in the country districts in this province, I despatched duly commissioned revenue officers in search of them, and they have seized all that could be found and sent them to this port, where they are now warehoused, and will abide the decision of the court.

As your lordship has been already advised, I issued a commission to investigate the charge contained in a telegram to the vice consul here, to the effect that Braine had been arrested at Petite Rivière, but rescued by the people. The report of this commission proves that statement was inaccurate, as Braine had not been served with any legal process on the occasion referred to.

Up to the present time none of the parties against whom warrants were issued have been apprehended in this province, although every facility has been rendered by my government for that purpose.

In accordance with my previous letter to his worship, the mayor of this city, offering any assistance the civil power might require, that officer made application to me to aid him with a military force a few days since, when Braine was expected here by the railway train. This was promptly granted, and every means taken to secure him, but in vain, as he was not found. *Vide accompanying copies of letters from the mayor.**

The parties accused of having prevented the arrest of Wade were summoned

to appear before the proper authorities, with a view to requiring bonds for their appearance to answer that charge at the first sitting of the supreme court in April next; upon their application for time for defence, the case was remanded until Monday, the 11th instant.

In conclusion, I beg to say that I will keep your lordship informed of any additional facts that may transpire in connexion with this matter.

I have, &c.,

HASTINGS DOYLE.

No. 14.

Earl Russell to Lord Lyons.

[Extract.]

FOREIGN OFFICE, *January 21, 1864.*

I lost no time in referring to the law officers of the crown your lordship's several despatches of the 11th, 15th, 21st, and 24th of December, respecting the case of the Chesapeake, together with the reports received from the colonial authorities up to the date from the colonies of 23d of December.

I shall now submit to the law officers your subsequent despatches on the same subject of the 29th, 31st ultimo, and 4th instant, and reports received from the colonies.

In the mean time, the only point to which I have more especially to call your lordship's attention is the unqualified condemnation pronounced by the law officers of the wilful and flagrant violation of her Majesty's territory committed by the officers of the United States naval service; a condemnation in which I cannot doubt the law officers of the United States government, on being consulted by Mr. Seward, will fully concur. But I am happily relieved from the necessity of dwelling on this part of the case by the frank and cordial assurances at once given to you by Mr. Seward of the readiness and desire of the government of the United States to make all proper and suitable reparation for the acts of their officers.

No. 15.

Lord Lyons to Earl Russell. — (Received January 24.)

WASHINGTON, *January 12, 1864.*

MY LORD: With reference to my despatch of the 4th instant I have the honor to transmit to your lordship copies of further correspondence relative to the affair of the Chesapeake. The last paper is a copy of a note dated the 9th instant, which I have just received from Mr. Seward.

It appears to contain a full apology for the violation of the British territorial jurisdiction committed by the United States officers, and concludes by saying that, fully determined to make all the amends that are due to Great Britain, this government will await the consideration of her Majesty's government upon the case as it is now submitted.

I have, &c.,

LYONS.

[Enclosure 1 in No. 15, Mr. Seward to Lord Lyons, dated January 5, 1864, published elsewhere in this series.]

[Enclosure 2 in No. 15.]

Lord Lyons to Lieutenant Governor Gordon.

WASHINGTON, January 5, 1864.

SIR: With reference to my despatch of yesterday I have the honor to transmit to your excellency a copy of the answer which the Secretary of State of the United States has made to the note in which I informed him that your excellency had issued a warrant for the arrest of the parties implicated in the affair of the Chesapeake, whose extradition had been demanded by the government of the United States

I have, &c.,

LYONS.

[Enclosure 3 in No. 15.]

Mr. Seward to Lord Lyons.

DEPARTMENT OF STATE,

Washington, January 9, 1864.

[Published elsewhere in this volume.]

No. 16.

Lord Lyons to Earl Russell.—(Received January 31.)

[Extract.]

WASHINGTON, January 18, 1864.

I have the honor to transmit to your lordship herewith further papers relative to the affair of the Chesapeake.

Your lordship will perceive that I have communicated to Mr. Seward an extract from a despatch from Major General Doyle, and other papers, giving the reasons for sending the case of the Chesapeake before the vice-admiralty court, and recounting the endeavors made to arrest one of the men whose extradition has been demanded by this government.

I have informed Major General Doyle, in general terms, that Mr. Seward has addressed a note to me expressing regret and disapproval on the part of the President with regard to the proceedings of the United States naval officers in Nova Scotian waters.

Among the enclosures in the present despatch is a copy of a note from Mr. Seward demanding the extradition of the men concerned in the affair of the Chesapeake from Canada. I immediately communicated this demand by telegraph to Lord Monck, and I sent him by the first post a copy of the note.

[Enclosure 1 in No. 16.]

Lord Lyons to Mr. Seward.

WASHINGTON, January 13, 1864.

[Published elsewhere in this volume.]

[Enclosure 2 in No. 16.]

Major General Doyle to Lord Lyons.

[Telegraphic.]

HALIFAX, *January 14, 1864.*

The examination of witnesses for the crown against Doctors Almen and Smith, and Mr. Keith, accused of having assisted Wade to escape, occupied from 12 to 7½ on the 11th instant, and the facts were brought out too clearly for misapprehension. The substance of Lieutenant Reyne's report, which is in your possession, was proved in every particular.

1. The civilians on the Queen's wharf, which is a very large one, were not in all forty, and are of respectable position.

2. Not a shadow of evidence of concert or premeditation to obstruct the arrest of Wade.

3. Only the three gentlemen above named at all implicated; the latter two in the slightest degree possible, and after a struggle between Dr. Almen and the constable had commenced.

4. No arrest made; the obstruction, Dr. Almen calling a boat proceeding in the stream, and interfering with constable's pistol when presented against the boat. All three above named bound over to stand their trial at the first sitting of the supreme court; I waiting until recognizances were completed—which they were not till yesterday—to telegraph to you.

[Enclosure 3 in No. 16.]

*Lord Lyons to Mr. Seward.*WASHINGTON, *January 16, 1864.*

[Published elsewhere.]

[Enclosure 4 in No. 16.]

*Lord Lyons to Major General Doyle.*WASHINGTON, *January 18, 1864.*

SIR: I have the honor to acknowledge the receipt of your excellency's despatch of the 6th instant relative to the affair of the Chesapeake.

I have communicated to the Secretary of State of the United States an extract from that despatch comprising the whole of it, with the exception of the second paragraph, which relates only to the copies of despatches from your excellency to the Duke of Newcastle. I have also communicated to the Secretary of State of the United States a copy of a letter from the mayor of Halifax to the provincial secretary of the 30th of December, respecting the endeavors made to arrest Braine.

I have, &c.,

LYONS.

[Enclosure 5 in No. 16.]

*Lord Lyons to Major General Doyle.*WASHINGTON, *January 18, 1864.*

SIR: With reference to my previous despatches respecting the affair of the Chesapeake, I have the honor to inform your excellency that I have received

a note from the Secretary of State of the United States, expressing the President's regret for and disapproval of the act of force exercised by the officers of the United States ship *Ella* and *Annie* in Nova Scotian waters.

I have, &c.,

LYONS.

[Enclosure 6 in No. 16.]

Mr. Seward to Lord Lyons.

DEPARTMENT OF STATE,
Washington, January 13, 1864.

[Printed elsewhere.]

[Enclosure 7 in No. 16.]

Lord Lyons to Viscount Monck.

WASHINGTON, *January 13, 1864.*

MY LORD: I have the honor to transmit to your excellency a copy of a note which I have just received from the Secretary of State of the United States, demanding the extradition, under the treaty, of certain persons therein named.

I have, &c.,

LYONS.

No. 17.

Earl Russell to Lord Lyons.

[Extract.]

FOREIGN OFFICE, *February 3, 1864.*

Your several despatches respecting the case of the *Chesapeake*, together with the papers which have been received by the Secretary of State for the colonies from the colonial authorities in North America, have been submitted to the law officers of the crown, for their opinion on the different questions raised in them.

The readiness which Mr. Seward, in his first communication with your lordship, manifested to make all proper and suitable reparation for the acts of the United States officers has rendered it unnecessary for me to insist upon the questions which, under other circumstances, it would have been my duty at once to instruct your lordship to discuss with the government of the United States, namely, the wilful and flagrant violation of her Majesty's territory by the officers of the United States cruiser *Ella* and *Annie*.

The government of the United States having subsequently made, as reported in your lordship's despatch of the 12th of January, a full apology for the violation of her Majesty's territory committed by its officers in the case of the *Chesapeake*, it is only necessary for me to authorize your lordship to state to Mr. Seward that her Majesty's government accept that apology in the same spirit in which it has been offered, and are truly glad that the matter has been settled in a manner honorable to both parties, and calculated to improve the friendly relations which her Majesty's government are always anxious to maintain with the government of the United States.

No. 18.

Lieutenant Governor Gordon to the Duke of Newcastle.—(Received February 1, 1864.)

[Extract.]

FREDERICKTON, January 18, 1864.

I have the honor to transmit for your grace's information the enclosed report of the examination before the police magistrate at St. John of the individuals charged with being concerned in the alleged piratical seizure of the United States steamer *Chesapeake*.

In my despatch of the 1st instant I had the honor to inform your grace that the honorable J. H. Gray, of St. John, had applied to me, in behalf of the accused, for copies of the requisition of the United States consul upon which my warrant, authorizing the arrest of the parties was issued, and of the depositions accompanying that requisition. I also transmitted to your grace copies of Mr. Gray's letter and of my reply.

I accordingly transmitted the required documents to Mr. Gray, along with the letter of which I have the honor to enclose a copy, and in which my reasons for declining to entertain his application as a matter of right, whilst I acceded to it as an act of courtesy, for which persons in the position of the accused might fairly look, are fully stated.

I hope the course which I have pursued may meet with the approval of her Majesty's government, and I have much gratification in finding, from a despatch from Lord Lyons, of which I enclose a copy,* that the government of Washington are fully satisfied with the action taken in at once authorizing the arrest of the parties implicated.

I have received information that, in the event of the conviction of the accused, an attempt to rescue them may possibly be made. I need hardly assure your grace that I shall take effectual means to prevent the possibility of such an occurrence, should it appear that there is any reason for apprehending the design to be seriously contemplated.

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[Enclosure 1 in No. 18.]

Examination before the police magistrate, St. John, New Brunswick, of persons accused of seizing the steamer Chesapeake.

Examination of Lieutenant Collins and Privates McKinney and Seeley at the police court yesterday.

ST. JOHN, January 5, 1864.

Eleven o'clock yesterday was the hour fixed for the examination or "trial" of Lieutenant David Collins and privates — McKinney and Linus Seeley, before the police magistrate, H. T. Gilbert, esq., arrested on a requisition from the American consul in this city, on the charge of piracy and murder on an American vessel. But long before 11 o'clock the court was crowded to suffocation, and the policemen were compelled to hold the doors to prevent further ingress. There were many barristers, merchants, editors, and other "leading citizens" present, and the deepest interest was manifested in the proceedings. Messrs. Wetmore and Tuck appeared on behalf of the federal authorities, and Messrs. Gray and C. W. Weldon for the confederates.

* Enclosure in No. 15.

Before the case opened, Mr. Gray asked Mr. Wetmore to elect upon which charge he would now proceed, and to state in whose name he was proceeding. Mr. W. replied that he would only state that he was proceeding upon the complaint of Isaac Willets. He first said he would take up the charge of murder, and subsequently decided to proceed with that of piracy, in the first instance. Mr. Gray then objected:

1. That this court has no power or jurisdiction to try for the offence of piracy. That for the trial of piracy a special commission must issue and a court be specially constituted for the purpose; and that such court is distinctly provided for by the imperial act.

2. That the warrant was insufficient. It does not show upon the face facts which are essential, under the treaty with the United States, to bring this matter into the courts of this province, or to create the special jurisdiction which enables us to arrest parties under those charges. [Mr. Gray cited the case of Dillon, charged with an offence on the sea beyond provincial jurisdiction (stabbing, we think it was,) who was arraigned before Judge Parker, and discharged. And Mr. Weldon cited the case of the brig Eliza, in 1847.]

3. Not only is the warrant insufficient on these grounds, but on the face of it is bad as charging two distinct offences triable before two different tribunals. There ought to be two warrants.

Mr. G. thought these objections fatal to any proceedings. Mr. Wetmore replied at some length, and read a large portion of the provincial act passed to give effect to the extradition treaty. He claimed that everything so far was regular, and that the magistrate could not go back of the warrant, which was sufficient authority for him. The magistrate told Mr. Gray that there was probably something in his argument; but that at present he would proceed with the preliminary examination, and if he decided before the case was through that he had no jurisdiction, he would give the prisoners the benefit of it.

Mr. Wetmore, for the prosecution, called Isaac Willett, the captain of the Chesapeake before her capture by Braine.

Evidence of Captain Willett.

Captain Isaac Willett sworn: Am a citizen of the United States; live in Brooklyn. A seaman for thirty years. Know the Chesapeake, owned by H. B. Cromwell, also a citizen of the United States. Was master of her in December, and had been for seventeen months. She was rebuilt in New York about three years ago. Previous to that she was called the "Totten." [Mr. Wetmore asked where she was registered. Both Messrs. Gray and Weldon jumped to their feet and objected to the question. The magistrate agreed with them.] During these seventeen months the vessel plied between New York and Portland. She had a coasting license. [Mr. Gray objected to any evidence respecting contents of this license; objection sustained.] He had the paper until it was taken away from him on board the ship. On the 4th and 5th of December I had charge of the Chesapeake, then lying in North river taking in cargo for Portland. Most of the freight was taken in on the 5th, Saturday. She carried passengers also. I saw these three prisoners on board on the trip in question; saw them first about supper time, about 6 o'clock in the evening. We left New York on the 5th December; I was in the wheel-house when the vessel left the wharf. They did not buy tickets; paid their money on board. I identify Collins and recognize the others. I wrote their names on a piece of paper and gave it to the stewardess to arrange rooms for them. [Wetmore asked the names of the other persons on board. Gray objected; objection overruled.] There was a person who called himself John C. Braine, said he was a colonel. Understood there was a person named Brooks. Don't recollect the names of Seeley and Clifford. All the passengers paid their passage except two. We proceed direct to Portland

from New York; do not call. The vessel, a propeller, was worth from 60,000 to 70,000 dollars. There was an assorted cargo: flour, sugar, wine, and such like. Do not recollect the owners. Do not know its value; probable 80,000 or 100,000 dollars.

There was no disturbance until Monday morning, 8th. We were then about twenty miles north-northeast of Cape Cod. Cape Cod is in the United States. About a quarter past 1 in the morning, the first thing I knew, the chief mate, Charles Johnson, came to my room and called me, saying somebody had shot the second engineer, Orin Shaffer. I turned out of my room and went to see how badly he was shot, and had hardly time to get out of my room before I was shot at. I was at the engine-room door, on the upper deck, where my room was. I found the body of the second engineer lying on the deck; it's more than I could tell, whether he was alive or dead; he appeared to be dead. I was in the act of stooping down to raise him up, when I was shot at twice. I then walked forward and was shot at again; I supposed to be from a pistol. Next day I saw two places in the floor where pistol-balls had gone through right by where I was. I can't tell who shot at me; I only saw two persons then; I cannot identify either of these prisoners as the parties. I saw no marks of violence on the engineer, but I saw marks of blood where his head lay. When I walked forward I was going into the pilot-house, when I was collared and a pistol was put to my face by First Lieutenant H. A. Parr, who was in the pilot-house. He collared me and said I was his prisoner, in the name of the southern confederacy. Parr put the irons on me, two or three others stood beside him; they seemed to be standing there doing nothing. He put handcuffs on each wrist; the irons could be made small or large. They put me into my own room; I could have come out when I pleased; no use for them to lock the door. I don't know what became of the body of the chief mate, except what I heard from the others. I was confined an hour, when Parr and Sailing-master Robinson came to me; they didn't say much, but took me into the cabin; there I saw some of the other passengers who were not concerned in the affair. While I was here the chief mate, Charles Johnson, and chief engineer, James Johnson, were brought in wounded; I had heard reports of fire-arms. The mate was wounded in the right knee and left arm; the wounds appeared to be made by pistol shots; I saw the leaden ball taken out of the mate's arm; he suffered considerably from the knee, not so much from the arm; Lieutenant Parr took the ball out of the arm. The chief engineer was wounded by a bullet in the hollow of the chin. Parr said he would get the balls out of them if he could, and fix the wounds. The chief mate laid on a lounge until he was put on board of the pilot-boat. I remained in the after cabin until 8 next morning. The irons were then taken off, and Robinson went up to my room on deck with me; I was in the room a few minutes and returned to the cabin. When on deck I saw Collins and Seeley there; Seeley was scrubbing brass on one of the timber heads; the others did not appear to be doing anything in particular. Colonel John C. Brains took my ship's papers from me in the afternoon before I was landed in the pilot-boat. Brains seemed to have command of the vessel; she was taken from me by these parties against my will and consent. I saw McKinney on board the vessel; they seemed to be about the vessel, and appeared to be eating the grub up as fast as possible. Don't recollect of seeing McKinney doing anything. The person who was navigating the vessel was named Robert Osburn a passenger, one of the six who bought tickets in New York. None of the parties named in the indictment had tickets. The first land we made after they took possession was Mount Desert; I asked them where they were going; they said Grand Munan; I asked where they intended to land me; they said St. John. Mount Desert is on the American coast, east of Portland. I would not see it if I were prosecuting a voyage from New York to Portland. After passing Mount Dessert we saw land east of that place. We proceeded to Seal Cove harbor, Grand Munan.

The boat was lowered, three or four men went ashore, remained a little while and came on board again, when the steamer left and came up the bay to St. John. Next I was taken up to my room by Braine and Parr; Parr made a copy of Braine's instructions, and Braine gave it to me. He ordered me to give up the coasting license, the permits for the cargo, and the money I had collected from Braine for his party, in all eighty-seven dollars. He asked for the money he had paid over to me; it was my employer's; I knew it would be worse for me if I did not; I handed it over against my will; Braine had a pistol in his hand at the time; I handed money, ship's papers and permits to him. The "papers" were the ship's "coasting license" from the New York custom-house, under which she was coasting at the time, as required under the American law. After this they took me away from the room and took me aft (Braine and Parr) and ordered me to stay there. We then saw a pilot-boat; we were on our way to St. John. The pilot-boat ordered us to stop; some one came on board the steamer from her, stayed a few minutes and returned. Then Captain John Parker came on board and apparently took command. They then took the pilot-boat in tow and steamed up to Dipper harbor. All of the passengers and crew, except two engineers, (James Johnson and Auguste Striebeck,) and three firemen, (Patrick Conner was one,) were put on board the pilot-boat. The firemen and engineers were kept against their will. Those who went on board the pilot-boat were myself, Charles Johnson, chief mate, Daniel Henderson, three boys and four sailors, whose names I do not recollect, the stewardess and five passengers. One of the passengers belongs some thirty miles back of St. John, the other four belonged to Maine. These five passengers had tickets. Robert Osburn remained on board the Chesapeake; he also had a ticket. The steamer towed the boat some five or seven miles and let go of us; we were put on board the boat about 5 in the evening; that was the last we saw of the steamer. I landed in St. John about 4 on Wednesday morning. I got a boat from a big ship near Partridge island and came to town with four of my men and two passengers. From the way the parties acted on my steamer I was afraid of my life. Everything was taken against my will. I saw one or two of these prisoners on watch; they were on deck. I supposed they were on watch; they seemed to be acting as other men would who were on watch. Braine's party assisted him in charge of the vessel. As far as I know, these men were assisting him. I did not see them making sail or shovelling coal. I don't recollect of seeing Collins or McKinney doing anything except being on deck.

Cross-examined by Mr. Gray: I don't deny there has been war in my country for two or three years between those calling themselves Confederate States and the so-called United States.

(Mr. Wetmore objected to this as an improper way of proving a state of war. The magistrate did not think this evidence could be shut out.)

I can't remember how many States are called the Confederate States—Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, (about one-third of the latter.) Abraham Lincoln is President of the United States, and Jeff. Davis President of the Confederate States. I never heard of Mr. Benjamin, Confederate secretary of war. I have heard them say they have a government. I have read Lincoln's proclamations of war against the south, ordering them to destroy the property of the south, but I do not recollect its contents. I never took notice of it to—

(Here the witness was stopped.)

Parr did put a pistol to my head in the pilot-house, and said he took me prisoner in the name of the southern confederacy. They put the irons on me rather hard. They did not say anything about taking the vessel in the name of the Confederate States then. After they took the handcuffs off there was always a guard with me when I went about. I did not see any act of violence towards the passengers after the capture of the vessel. The handcuffs were also removed

from the officers. I left a copy of the instructions which Braine left with me, in New York.

(Mr. Gray asked the captain the substance of these instructions; Mr. Wetmore objected. Mr. Gray argued the point, and then read from manuscript a copy of Captain Parker's order to Braine, (which Captain Willet had published in the New York Herald and other papers,) and asked the captain if the copy was correct. The witness said it was nearly correct. The name of the sailing-master in the copy handed him by Braine was George Robinson, not Tom Sayers; the name of the engineer was not given in it, and the number of the men stated was eleven, not twenty-two. In other respects Mr. Gray's copy was correct.)

The confederates kept of my private property one double-barrelled gun, one single-barrelled gun, five five-barrelled revolvers, and one six-barrelled revolver. (I did not come out of my room "in what they call my shirt-tail.") They kept me aft and plundered my room. They took three coats. I missed them when I commenced to pack up. I brought ashore my clock, eight charts, sextant, and three books. The passengers also brought ashore their own things. I did not see Braine give the passengers money to take them back to New York. The crew brought part of their things ashore. They put us into the pilot-boat six or seven miles this side of Dipper harbor. I did not see and do not know that the confederate flag was raised over the vessel. They fired two shots at me, and I don't know how many more. The first two shots were fired at twelve feet. They must have been bad shots. The Chesapeake had two 6-pounders forward, and of ammunition half a keg of powder; no cutlasses. The confederates who cut out the Caleb Cushing at Portland were sent to Fort Warren; I have heard so. The Chesapeake was engaged in retaking the Caleb Cushing. I saw the confederates who were then taken; they were sent to Fort Preble. I do not know that those confederates were ever tried as pirates, or in any other way. Only Lieutenant Parr told us that their party was acting for the Confederate States. They all seemed to be working together, and were working under Parr and Braine. I was not at Sambro, and did not see the steamer after I got into the pilot-boat. None of my crew, to my knowledge, were kept in irons the next day—the day after the capture. I never saw or heard of Braine or Parr before.

Re-examined by Mr. Wetmore: I have heard the confederates called rebels in the northern States generally. The Caleb Cushing was lying at a wharf in Portland harbor when captured. Braine was called colonel; the parties all seemed to be working together. I cannot tell whether Braine paid the passage of these three men, the prisoners.

Both sides having exhausted the evidence of the captain, the case was adjourned until Wednesday morning. During the forenoon there were one or two attempts at applause by spectators, especially when Mr. Gray referred to the fact that if the prisoners were committed by the magistrate they would be delivered up to the federal authorities to be tried for their lives in that country, and under laws in the making of which they have had no voice. The magistrate very properly and promptly rebuked the offenders. It is to be hoped that nothing will occur to interfere even in the slightest degree with a thorough and impartial investigation into the charges made against the men now in custody.

ST. JOHN, *January 7, 1864.*

Yesterday morning, shortly after 11 o'clock, the examination of Messrs. Collins, McKinney, and Seeley, before the police magistrate, was continued. The courtroom was crowded with spectators as on the first day, and many persons went away unable to obtain admittance. The only witness examined was Mr. Daniel Henderson, who was second mate of the Chesapeake before her capture. We annex a verbatim report of his testimony:

Evidence of Daniel Henderson.

Daniel Henderson sworn :

I reside in Portland, Maine. Am an American citizen. Have been a seaman for eleven years. Have been recently employed in Portland and New York—the Chesapeake was my last vessel, running between these ports, carrying freight and passengers. Have been in her ten months on this route. About five years ago I was in her for two or three years; she then ran between New York, Baltimore, Charleston, and Savannah, and sometimes Portland. She was then named the Chesapeake; had previously been named the Totten. Was then owned in New York. Is owned by Henry B. Cromwell, an American citizen. I know nothing about her register; never saw her coasting licenses. I was second mate of the Chesapeake. The first mate was Charles Johnson. James Johnson was first engineer, and Orin Shaffer second engineer. There were eighteen of a crew in all, with the stewardess.

I was on board the Chesapeake on Friday and Saturday, the 4th and 5th of December. She was then lying at pier 9 North river, New York, taking in cargo for Portland. We left New York for Portland on Saturday, December 5, about 4 o'clock p. m. We generally make the passage in 36 or 37 hours, according to the weather. On the 5th of December we had passengers and freight on board; there was considerable cargo of cotton, wine, &c.—pretty nearly full. The Chesapeake is between 400 and 500 tons. The cargo was a pretty valuable one; can't say how valuable the cargo or vessel was. We had twenty-two passengers; I don't know their names. I heard some names mentioned on board—Braine, Lieutenant Parr. That's about all the names; I also heard Collins's name. I had seen Braine before. He came about two weeks before that as a passenger on the Chesapeake from New York. He said he was from London. He had a wife and child with him at that time. There was nobody shot on board the steamer that time. I saw the three prisoners on the trip on the 5th December. They came on board as passengers. I did not notice any of the passengers when they came on board. Sometimes we have 70, 60, 50, or or 40, or 30 passengers—22 was not an unusual number, and excited no suspicion. When the steamer starts I am generally cleaning up, making sail, &c. I have nothing to do in the pilot-house, except when it is my watch—that is, from 8 to 12 at night. On the night of the 5th I was in the pilot-house at those hours; I recognized Braine around the house that night. Nothing unusual occurred on board that night. It was a very dark night; there were rain squalls, and it was very cloudy. At 12 I called the mate, Charles Johnson; his duty was to look after the ship as I had been doing. His watch was from 12 till 8 in the morning. His place was in the pilot-house or on deck, just as he chose. I went to bed at 12 o'clock. My room was next to the pilot-house, right abaft, on the upper deck. On Sunday night I took my watch from 8 to 12, and went to bed at 12. I was in bed about an hour and a half, when four men came to my room and broke in the lower panel. I was asleep at the time. They opened the door right out. [Here Mr. Gray objected to the witness stating "what these four men did," until he identified the prisoners as of the party. The magistrate allowed the witness to proceed.] I can't say that either of these prisoners were the men. Two of them were officers; their names I do not know. They held their four pistols right over me, right at me, in the bed, and told me to turn out and put my clothes on. The pistols were all revolvers. I couldn't say whether they were cocked; I should think they were loaded. They then made me put up my hands, and they put handcuffs on me. I asked them if I couldn't see the captain, or somebody belonging to the ship. They said no, I couldn't see nobody. When they put the handcuffs on me, they said I was a prisoner of the Confederate States. Nothing further was said at that time. They then locked me in the room. I was there about ten minutes when I heard a noise

like a man falling at the pilot-house door. I shoved my door out, and fell down on deck. Then two men, whom I would not know, caught right a hold of me and shoved me into the pilot-house and left me there. I was there about twenty minutes when Braine came in, and I heard him say the second engineer was killed and hove overboard. He went right out again. I was there till 7 o'clock in the morning. Braine and others came in once in a while. Seely, whom I recognize, came in twice. A big, tall fellow, with sandy-colored whiskers, whom I do not know, and whose name I did not hear, was steering. He was not one of our crew. I did not see either of the other prisoners in the pilot-house. Seely came in to warm himself. He was keeping watch forward. I was sitting down in the corner of the pilot-house. Seely said nothing, except that he wanted to warm himself. Some of the officers (confederates) came to me about half-past 7, Monday morning, and asked me where the paints were kept, and told me I must go down and show them the place. I went down. One of the confederates, whom I would know if I saw, went with me. He had a pistol; I never carry arms. I showed them where the paints were. He said he wanted to paint the ship's name out, and the yellow streaks off the smoke-stack. I asked him to take me out of irons. He said not, and put me in the pilot-house again. I remained there till 8 o'clock a. m. The same big man was at the wheel. I saw the prisoner, McKinney, standing outside the pilot-house, doing nothing. Seely was keeping lookout all the time. I had not seen Collins up to this time. One of the officers came to me, a little after 8 o'clock, and took the irons off me, and took me to the passengers' cabin on the second deck. I saw the mate there, wounded in the right leg and left arm; he was lying on a mattress. The ball had been taken out of his arm, but they could not get it out of his leg. The engineer was also there, wounded, in the cabin. I stayed there till breakfast time. I asked Braine if I could stay there and attend to the first mate. He said he would see after a while, and afterwards said I could stay. Braine put a guard over me. I don't know the guard's name. McKinney was standing at the cabin door, with a pistol in his hand. I saw Braine speaking to him, but did not hear what he said. He remained a part of the time, and another took his place. The guard over us also had a pistol. It was nearly 9 when we were taken out for breakfast. There were four men on guard, standing up, walking about on each side the table. Each man had a revolver. McKinney stood on the steps, pistol in hand. After breakfast, I went into the passengers' cabin, with the mate, and stayed there most of the day, Monday. I asked liberty, and went on deck several times during the day. There was no guard sent with me, but guards were stationed all along deck, on both sides of the ship. I saw Collins walk around deck, with a pistol in his hand; I did not hear him giving any orders at that time. I saw Seely at that time cleaning brass on the timber-heads. I saw Braine and Parr at different times, talking with these prisoners, during Monday and Tuesday. On Monday night, us prisoners belonging to the ship were sent below; the officers were put in the passengers' cabin, and the seamen and firemen were put forward, with the exception of one of our firemen that they had on duty. At 8 o'clock on Monday night, one of the (confederate) officers came down and took me up to the pilot-house, and asked me to show him how the bells worked for stopping the engine. I showed him. When I was in there, I asked where was our men; they said they were below. I heard Collins and Braine and Parr called by name. I heard Braine call Collins lieutenant. The parties all seemed to act under Braine. The officer who took me up had a pistol at his side. He took me back to the cabin. I remained there all night. I was kept under restraint all this time. I sat by the mate all night. On Tuesday morning, about half an hour before we got to Grand Manan, the party who was running the vessel for Braine sent Braine down for me. Braine took me on deck and told me to go forward and get the

anchor ready to let go when they gave orders. Braine stood over me with a pistol. I got the anchor ready, according to their orders, and let go when Braine told me. It was in a harbor, in Grand Manan. This was about 8 o'clock, Tuesday morning, December 8. During all this time I didn't know what they were going to do; they wouldn't tell me nothing. I was a prisoner all the time and kept well down, with a guard over me. I was alarmed.

I saw blood on the deck where one of the officers (confederate) said the second engineer laid. He told me they killed him and hove him overboard. One of the confederate party told me the second engineer was shot in the head. I only know about the engineer what I heard the party say. The second engineer could not have pumped hot or cold water over the deck under twenty minutes' time. He might have done it alone. To do it, he would have to come up on deck and go forward to the engine-house, go to his hose-box, unroll the hose along deck, and then connect them with the goose-neck on the engine on the upper deck, then pass them down into the lower engine-room, then go around behind the engine-room and go below, himself, and start his machinery there. Then he would have to come up again to his own engine-room and get a hold of his hose. It's not an easy thing for one man to do alone; I don't know that he could do it. All this would take him twenty-five minutes. I do not know that the second engineer had a pistol. I heard Braine say to the first engineer that he believed the second engineer fired first. The engineer said that he believed the pistol laid in the second engineer's bed yet, and that, if Braine would allow him, he would go to the room and find it. Braine did not say anything. I believe they went in search of the pistol and found it. [The magistrate ruled this last paragraph out.] I heard the chief engineer say to Braine, afterwards, that they had found the pistol in the second engineer's bed, and Braine could go and see it. The second engineer was a stout, able man, nearly 6 feet, about 45 years old, lived in New York city, was a United States citizen, and told me several times he was born up the North river. He was on the boat pretty nigh two years; was a very nice-dispositioned man, a gentleman in his manner, &c.

After I let go, at Grand Manan, we had breakfast. I did not feel like eating at the moment; I felt uneasy. I did not know at what moment I would go over the rail. They lowered a ship's boat. Braine and three or four men went ashore, and remained ashore two or three hours. Then they came off, hoisted the boat, and steered towards St. John. At this time I was in the cabin, into which I was ordered by one of the officers, and was kept under guard. They fell in with a pilot-boat; the boat ordered them to stop the steamer, and a man came on board from the pilot-boat and stayed awhile, went back, and returned to the steamer with another man with a valise. This was two or three hours after the steamer left Grand Manan. I did not hear either of these parties called by name. I could not say of my own knowledge whether either of these parties took charge. I was aft all the time. The steamer took the pilot-boat in tow up to Dipper harbor. Then they hauled the pilot-boat alongside and put all of our crew aboard, except the two engineers and three firemen. They kept James Johnson, the chief engineer, August Stiebeck, the third engineer; I don't know the names of the firemen. Five passengers were put on board the pilot-boat; these were not of their party; on board the steamer they were kept down just as we were. One of the passengers remained on board the steamer: the person who acted as pilot. I do not know his name. The steamer towed us to within about three miles of Partridge island, and then let go. The steamer kept on her course towards St. John. It was about 8 o'clock, Tuesday evening, when they cut us clear. We kept on with the pilot-boat as long as we could. The boat anchored abreast of Partridge island. We stayed on the boat until ten next morning. The steamer Chesapeake and cargo were taken from our possession by this party against my will, and was taken away by this

party. I was in fear of my life from the time they took the steamer until I got out of the pilot-boat. I am not in the habit of being afraid under ordinary circumstances. We came up in the pilot-boat about 11 on Wednesday morning, and were put on board the steamer New England.

These prisoners were on board the steamer when she cast us off, and went with her. The prisoners were acting with Braine, all acting together.

The confederates put a staging over the stern of the vessel when they got the paint, for the purpose of painting the name out; and they said afterwards that they did paint it out. They made our men paint the yellow streaks out of the smoke-stack; they painted them black.

[Mr. Tuck asked the witness if the Chesapeake was an American vessel. Mr. Gray objected, saying this was not the proper way to prove her nationality. Magistrate seemed inclined to agree with Mr. Gray. Mr. Tuck cited what he considered a parallel case from "Curtis's Digest." Mr. Gray and Mr. Weldon replied. The court ruled against the question.]

The Chesapeake carried the American flag. I never knew her to sail between any other than American ports. The stars and stripes are the American flag. The captain and crew had not charge of the vessel and cargo after she was taken possession of on Monday morning.

Cross-examined by Mr. Gray: I was in bodily fear of my life while on board the steamer when in hands of the confederates. My thoughts were a good deal on that. I have not told more than occurred. There was a good many things that I did not see. In coming down by the train the other day I did not get out for fear of coming to St. John. When I was aroused I was told I was a prisoner to the Confederate States. I don't know that the federals have taken many vessels from the confederates—they may have taken some. When they took me prisoner I knew what they meant. I thought they were acting for the Confederate States. I did not see the confederate flag run up. I did not see the copy of the order given to Captain Willett by Lieutenants Braine and Parr. Captain Willett told me they gave him their names; he did not say they gave him a copy of the order. I was not treated with any unkindness more than was necessary to prevent the recapture of the vessel. They kept the engineer on duty when he was severely wounded in the chin and bleeding. When we landed I took what clothes I had; the confederates did not prevent me taking anything. I did not see Lieutenant Braine and Lieutenant Parr talking to the other passengers. The party who sailed the vessel after she was taken appeared to act as if he was one of them. The cotton on board may have come from New Orleans or elsewhere. It might have come from Europe. I don't know. There was no one hurt who didn't make resistance to the capture of the vessel. Did not hear of Braine saying that his orders were not to injure any one except in case of resistance. I believe the men of the vessel were not ironed after Monday morning, when possession of the vessel was secured. The confederates told me that if I would be quiet and stay below I would be taken care of. One of them said no harm would be done me if I did not attempt to recapture the vessel. I believe all the passengers brought their baggage with them when landed. I do not know, and did not hear, that any of the passengers and crew (except the captain) lost anything.

To Mr. Wetmore.—I do not know that these men were acting for the Confederate States. The chief engineer was forced to work when wounded. I don't know what became of the baggage of the second engineer, who was killed. I do not know how he was killed; that was when I was asleep.

The examination was conducted in scarcely so serious a style yesterday as on the first day. The witness himself was rather an "original" character. The lawyers, especially Mr. Gray and Mr. Tuck, appeared in a mood for sparring; and the audience were inclined to manifest their appreciation of the good hits that were occasionally made both by counsel and the witness. The lawyers

on both sides seem to feel the utmost confidence in the justice of their respective causes, Mr. Gray frequently informing the court and spectators of what he "intends to show before the case is through," while Mr. Tuck and Mr. Wetmore identify themselves with their federal friends by talking of "robbers," "pirates," &c. The witnesses already examined seem to tell a pretty straight story, although the cross-examination has not failed to add to its interest by eliciting some new facts that might otherwise have been lost to the world.

At 4 p. m. a third witness named Charles Watters was wanted for the prosecution, but was not on hand. One of the policemen stated that Mr. Watters had said to him, when he went after him, that he would not appear unless compelled to do so. A document was accordingly issued to compel his attendance, and when the case comes up again at eleven to-day, Mr. Watters will probably take the stand.

On Thursday the investigation into the charges against Messrs. Collins, McKinney, and Seely was resumed.

James Johnson sworn.—I reside in New York; was born in Ireland; have lived in New York fourteen years; am not naturalized; am an engineer; I know the steamer Chesapeake; I was her chief engineer for over a year; it was three years last July since I first went on board of her. She was employed in carrying passengers and freight. I was on board of her Friday and Saturday, December 4th and 5th. I was in charge of the engine from 6 to 12 that night. Nothing unusual occurred that night or on Sunday. The first thing I knew between 1 and 2 o'clock on Monday morning, I was awakened by the report of a pistol. My room was on deck. I went out and found Mr. Schaffer on deck lying at the engine-room.

Yesterday Mr. Johnson resumed as follows:

The Chesapeake's voyage at this time was from New York to Portland. I can't say where she was built; I have known her for six years. She was called the Chesapeake six years ago. I knew her previously under the name of the Totten. She then traded between New York and Baltimore; I don't know where she was built. She has always traded between American ports since I knew her. She was rebuilt at one time in New York; I don't know where. She was called the Chesapeake before rebuilt. She is owned by H. B. Cromwell; carried the American flag. When I found Schaffer's body lying on deck I raised him up and called him by name; he did not answer. He was lying on the deck with his feet down the hatchway. His body was on the deck. He was dead. This was between 1 and 2 o'clock. I did not see blood then. The night was pretty dark. I saw two specks on his neck. I could not tell whether they were cuts. I then went down, where he had come up, to the deck below. I then got a pistol put to my head by Collins, the prisoner, whom I identify. I could not see whether it was cocked. I told him to hold on; and then a man besides Collins, whom I took to be Brooks, shot me with a pistol.

[Mr. Tuck asked the witness if he knew who shot the second engineer. The witness was going on to state what Brooks said, when the prisoners' counsel objected. Magistrate decided against the question.]

None of the prisoners now present were within hearing when Brooks made a statement to me. After I was shot I went across to the engine-room. Before I went below, when I was at the body of Schaffer, I spoke to Wade and asked him to help me. He seemed to be afraid—said nothing. Wade was one of the party who conspired to take the vessel. I was fired at without anything being said to me. The ball lodged in my chin; it remained there until two days ago; it was taken out by Dr. Earle at Ossekeag. When I went across the engine-room I found the mate, Charles Johnson, coming into the room. He had been

shot twice—once in the knee, the other in the arm. He and I went into the kitchen through a little hatch. We stayed there for about a half-hour. From there I saw Mr. Schaffer's body thrown overboard by three or four persons. Braine was one of them. I didn't know the others. He was thrown over just as he was; was not wrapped in anything. I don't know how long this was after he was shot. The cook came to the kitchen where we were. I asked where Captain Willett was; he said he was in the cabin. I asked him what was going on; he said the ship was taken. I told him to tell some one to come and take us out. I had no clothes on except my night-shirt. George Robinson, the sailing-master, came and took me to my room to dress. (Robinson was sometimes called Sears on the boat.) I did not see any pistol with Robinson. I heard two or three pistol-shots fired on board. After dressing I went with Robinson to the cabin, where the captain was in irons. The mate was there, wounded. Mr. Parr, who was called lieutenant, was taking a shot out of Brooks's hand. He then took a shot out of the mate's arm, and tried to take the shot out of my chin, but could not do it—he said it was fast in the bone. I had some conversation with Lieutenant Parr. He told me to keep the cold out of my cut. He assisted me in wrapping up my chin. I had no conversation at this time with reference to the pistol-shots. I afterwards went to the engine-room with Robinson to see if everything was right there. The third assistant and oiler, Striebeck, had charge of the engine. Captain Willett had asked me if the ship was safe; I said no; Robinson overheard this and went and asked permission to take me to the engine-room. I wanted to see what state the ship was in, or if she was going to blow up. I found the oiler there; did not remain there long. I told the man how to carry steam, and then went back to the cabin. I remained in the cabin an hour and then went back to the engine-room. There was always some one with me as a guard. I don't remember either of these prisoners going with me. I was taken back to attend to the engine, and see that everything was going right. Braine spoke to me and said they had no engineer, and that I would have to attend her. I was hardly fit to do it, the wound in my chin bleeding enough to cover my shirt. I remained in the engine-room all day; I had to stay there, with some of the crew as guard all the time. Both McKinney and Collins were on guard over me at different times. They were armed with revolvers. There was one man on guard in the engine-room and one in the fire-room all the time. I was not threatened. The two Coxes, Harris, two Moors, who were brothers, Tredwell, Wade, Collins, McKinney, Brooks, and Seely, guarded me in turn. Lieutenant Braine used to sit with me sometimes. He had command of the crew. The sailing-master, Robinson, was on deck. They were all acting in concert. They acted under the orders of Braine and Parr, and sailing-master Robinson, as far as I could see. I remained in the engine-room nearly all the time; when I slept it was on the locker in the room. I was not on deck much—hardly any. Did not see what was going on on deck. I don't know the time when the vessel stopped at Grand Maran. She remained there two or three hours. When we left there we came down towards St. John. We arrived off the harbor between 7 and 8 on Tuesday evening, December 8. The steamer stopped on the way up and took a captain, Parker, on board from a pilot-boat. He took charge over Braine. There was a gentleman, a Mr. McDonald, came on board at the same time. Mr. Parr introduced him to me as Mr. McDonald. We got nobody else in there. This Mr. McDonald came to see me, and told me to content myself for a few days—that he would only keep me forty-eight hours longer. He said he was concerned in the thing. I told him I wanted to get home, as my folks would be uneasy. He asked me for my wife's address, and said he would send her a telegram to let her know I was well and would be treated well. He forgot all about this afterwards. I gave him the address. There was no telegram sent. McDonald went ashore in St. John. This was the only conversation I had with him. I saw him when I left Hali-

fax the other day. He accompanied me all the way to Moncton, perhaps to see that I got safe through—not with my wish.

We remained off Partridge island from three to five hours. A boat went ashore from the steamer with Captain Parker, Mr. Braine, and Mr. Parr. They did not tell me why they went ashore.

They were ashore all the time we laid there. We started as soon, after they got back, as we could get steam up. McKinney went ashore with them. I don't know whether they took anything on board with them. They got no coal here. I do not know that they got any provisions. We left St. John about two o'clock on Wednesday morning, under steam. I was still kept at the engine. We went into Shelburne, Nova Scotia, first. We got there between eight and nine o'clock on Thursday night. Captain Parker had charge of the vessel on her way to Shelburne. Had I been allowed, I would have gone ashore in St. John; I was not allowed. I was taken away against my will. Four of our men besides myself were taken—myself, Striebeck, the oiler, Richard Tracey, Patrick Connors, and John Murphy, firemen. I believe the others of our crew went on board the pilot-boat. I managed the engine from here to Shelburne. I got a little sleep once in a while; I slept in the cabin three hours one time, the rest in the engine-room. We had a rough passage to Shelburne—a heavy gale of wind after we got around Cape Sable; it snowed. We laid to an anchor in Shelburne harbor all of Thursday night. We got coal and wood there. It came on board from a schooner. Captain Parker said we got ten tons of Sydney coal and two cords wood. I don't know whether we got anything else or not. We put some little freight on board the schooner—some sugar, apples, and flour. I don't know the value of the freight; could not tell how many packages. Mr. Braine left the vessel there. I don't know whether he took any of the freight with him. I don't know where he went. He came on board again at La Have.

We got additional crew at Shelburne—four persons. The names of two were Snow and Smith. They had as many men before as the ship needed. Captain Parker said he belonged to Shelburne. He was his own pilot. I did not hear him called by any other name. We left Shelburne on Friday morning at daylight.

We put into La Have river towards evening, where we came to anchor. When there we discharged cargo into a schooner—there was flour, wine, sugar, and tobacco, and some cases of stuff. I can't tell how many packages of each went out. The wine was in quarter pipes. There was also some cotton went ashore. (The wine was distributed on board the vessel; I got some of it.) I heard Captain Parker say that Mr. Kinney, a man living there, got a thousand dollars worth of the freight. Braine came back here. We laid there three or four days, and over Sunday. Braine did not tell me where he had been. He only stayed there a little while. Mr. Parr told me that Braine took a trunk with him, supposed to be jewelry. [The magistrate objected to this "hearsay" being taken down as evidence, and adhered to his opinion, although Mr. Anglin furnished information respecting O'Connell's trial for high treason.] Braine did not return to the ship again. That was the last I saw of him. We got no coals or additional crew at La Have. We got some wood. I did not hear these prisoners say anything about Braine at this time, nor do I know what Braine took. Mr. Parr told me he was going away for a day or two to bring Braine back, and when he returned he would try and get the captain to liberate me, as he knew I wanted to get home. He also said Braine was not doing right; that he had taken four hundred dollars with him ——— [The witness was stopped.] Parr said I was not in a condition to stay on board, and ought to be liberated.

[At this stage the court adjourned for dinner. At 2.40 p. m. the examination was resumed. Mr. Gray again objected to the admission of the statement of Parr relative to Braine's leaving with money, &c., and cited "Roscoe's Criminal Law." Magistrate said he had already ruled in Mr. Gray's favor.]

Parr left after this conversation. He did not come back while we were there. I don't remember what evening we left. Captain Parker was still in charge when we left La Have, and these prisoners were also on board. We left and went down to the mouth of the river. I don't know of any special reason for leaving La Have. I had nothing to say in the matter. We towed the schooner down to the mouth of the river and loaded her with freight; she was a vessel of about fifty tons. We loaded her pretty well with the Chesapeake's cargo; I can't say what. I saw the schooner lying at anchor next morning. I did not know where she went, or what was received for the cargo. We got some wood off the schooner before we put the freight in her. We remained at the mouth of La Have till daylight next morning. Then we went to Sambro. The coals we got at Shelburne lasted us down to Sambro, which is twenty miles from Halifax. Captain Parker went to Halifax for coal; he took none of the cargo with him. He returned to Sambro with a schooner loaded with coal, and two engineers and two firemen. Parr had not returned at that time. We were taking in coals at Sambro from the schooner. They arrived at two in the morning; Captain Parker was in the schooner. I got up and spoke to Captain Parker, and he told me about those men he had. He asked me to show the engineers the machinery; I told him I would after daylight. After that I was getting ready to leave—Parker told me he was done with me—the pilot, named Flinn, who carried her into Sambro, reported to Captain Parker that a gunboat was coming in. Parker went on deck to see her. (This was in Mud cove.) He asked his new engineer to get some steam on. Captain Parker asked me to scuttle the ship. I told him I did not know how; he said I could cut a pipe and do it. I said we had no pipes that I could cut. Captain Parker left the cabin then. I carried my clothes on deck, and when I went up Captain Parker and his crew (including the prisoners) were leaving the ship. They all left. I went and got the American colors out the wheel-house, and gave it to one of my firemen to run up. He ran it up, Union down. The gunboat came alongside us and boarded us. Lieutenant Nicholls was in command of the gunboat. At this time the oiler and three firemen, and the two engineers that Parker brought, were on board. The new engineers had no chance to get into the boats. I had not steam up on the vessel. Lieutenant Nicholls asked me who was aboard the steamer. I told him. We then went to getting steam up. We had not coal enough to leave, and had no oil aboard. We left in an hour or an hour and a half. The gunboat was named Ella and Annie. We got coal and oil enough to start, and went to Halifax. The gunboat went into Halifax with us; the Dacotah was behind us. We came to anchor in the harbor, and I went ashore in the evening. I was in Halifax since then until last Monday morning, when I left for here.

From the time the Chesapeake was taken Mr. Braine and Captain Parker and their crew had charge of the vessel, and Captain Willett and his crew had no charge from that time. I did not act of my own free will from that time, but under the orders of these people.

[Mr. Tuck asked what conversation he had with Lieutenant Parr respecting finding the second engineer, Shaffer's, pistol. Mr. Gray objected.]

I went into the second engineer's room with Lieutenant Parr and Striebeck, and I found the engineer's pistol, and handed it to Mr. Parr. I found it in the second engineer's drawer. Parr examined the pistol. He said it had not been used. His room was on the deck above where he attended the engine. This engineer had been in the Chesapeake two years; I had been there all that time, and knew him well. I hired him. I never knew him to carry a pistol; if he had, I think I would have known it.

There were no means on the Chesapeake for putting boiling water on the deck. We had a force-pump to throw cold water, and hose in case of fire. The second engineer could not have got them to work. I saw these prisoners from time to time after the vessel was captured. I do not know what Collins's position was or what he was called. They all carried revolvers.

Cross-examined by Mr. Weldon: I stated that Brooks was shot in the hand. It was in the left hand. Parr cut the shot out. I did not hear anything said about the second engineer shooting him. The engineer's place was on the deck below. I saw Brooks's face as the pistol flashed when he fired at me. He was not two feet from me when he fired. The ball was bedded in the bone. The wound in the chin can be seen now. The mate and I went into the kitchen and remained there half an hour before any one came. There was no more violence used. I gave Parr my razor to cut out the ball. They did not say they took the vessel in the name of the Confederate States. I heard nothing about the Confederate States. They used a secesh flag in Shelburne. I can't describe it; it didn't look right to me. I mean the confederate flag. I can't tell the color of it, or the number of stars. I took a look at it, but I can't remember what it looked like. I understood from one of the men that the confederate flag was up there. I can't tell how many colors there were in it. Neither Braine nor Parr told me they had orders to take the vessel. Parr told me he and Braine travelled on the Chesapeake a month before for the purpose of taking her. Parr told me he had been in the southern army. [Mr. Wetmore made objection to admitting Parr's "narrative." Magistrate overruled it.] Parr said he had been in the southern army, and was a released prisoner. He did not say what part of the Southern States he came from. Parr treated me very civilly. He said one time, that as Captain Parker had not kept his word, he (Parr) would try to get me away. I worked the steamer to Grand Manan, and from there to St. John. Part of the time my duty was on deck; sometimes I went up alone. I took my meals in the cabin. Braine told me he had no engineers, and that I had to work the vessel. Captain Parker, when he came on board, said he would have to keep me awhile, and asked me how much money I wanted for retaining me. I said not to mind the money, that I would run the ship, as I had to do it. After we left St. John I ran the vessel under Parker's orders. There was a watch in the engine-room, fire-room, and on deck all the time. The watch did not follow me when I went out of the engine-room. Captain Parker said Shelburne was his native place. He did not tell me he had gone down south when a boy. He never mentioned the Confederate States to me. I don't know his Christian name. I never saw Parker before. I can't tell the distance we were inside Sambro harbor when we were retaken. We might have been four miles inside; about half a mile from the shore. When the confederates left they took one of the steamer's boats. Some of the Ella and Annie's crew went on board the coal schooner and searched it, and found Wade. The two Halifax engineers and Wade were sent on board the Ella and Annie. When we went out of the harbor the Dacotah was lying outside, at the mouth of the harbor, waiting. We spoke the Dacotah. Striebeck and the firemen all expected to leave the Chesapeake when the other engineers came.

Re-examined by Mr. Wetmore: The watch in the engine-room and fire-room were armed. I can't say about the watch on deck.

At half-past 4 p. m. the court adjourned until Monday morning. It seems that Mr. Charles Watters, who is wanted, cannot be found. The counsel for the prosecution are expecting other witnesses to arrive from the States

The court was in readiness yesterday morning for opening at 11 o'clock, and at that hour the prisoners' counsel, as well as a very numerous body of spectators, were in attendance. Among the on-lookers we noticed three clergymen, who probably had attended in order to lend the sanction of religion to what the editor of the Colonial Presbyterian no doubt considers the holiest of all causes—the cause of the Confederate States! There was not so much crowding

among bystanders as on the previous days, but the interest manifested was not a whit less keen. This time the delay in proceeding with business was the fault of one of the prosecuting counsel, and not "Mr. Anglin's." We ought to explain that the editor of the *Freeman* has been very improperly charged with retarding the court's proceedings by not being up to time in arriving at the police court. The lawyers say that since the editor "has taken charge of the case," he ought to be at his post at the proper hour.

Mr. Anglin and Mr. Wetmore having arrived, the investigation was resumed.

Mr. Wetmore offered in evidence copies of extracts from acts of Congress relating to piracy, and President Lincoln's proclamation of April 19, 1861, declaring the molestation of United States vessels by confederates to be piracy; the same being certified as correct by the Hon. William H. Seward, federal Secretary of State, and sealed with the seal of the federal State Department. Counsel for prisoners offered no objection. Mr. Wetmore wished counsel for the prisoners also to admit the American Shipping Act as in evidence, although he did not have it present. Mr. Gray agreed to this. Mr. Wetmore next tendered a copy of the order left by Lieutenant Braine with Captain Willet at the time of the capture. Admitted.

At half-past 12 Mr. Charles Watters was placed on the stand, and in answer to Mr. Wetmore's questions stated as follows:

I have lived twelve years in Carleton, and know McKinney and Seely. I have had no conversation with either McKinney or Seely relative to the capture of the Chesapeake. I heard a good many persons stating things in their presence. It was in Lower Cove; McKinney, Seely, and Gilbert and John Cox were present. The Coxes reside in Carleton. This was in a house in Lower Cove. I do not know the streets in Lower Cove. It was between Queen's square and the barracks. I don't know the names of the streets on the east and west side of Queen's square. It was not on the street on the west side. I would have to turn to a street on the left of the street to the west of Queen's square. [A plan of the city was shown to the prisoner, and he identified Main street as that on which the house was situated.] It was a workshop, up stairs. We went into a yard to go up. Besides the Coxes, McKinney, and Seely, the "captain" was there. There were ten or twelve there besides them. Lieutenant Braine was not there. The man they called the captain was there. I heard the captain say he wanted to raise a crew of twenty men to go to New York to take a steamer. I have since heard the captain's name was Captain Parker. I did not hear them say the name of the steamer. Some of the party asked if they were all going. We were all to get an equal share; I can't say what the officers were to get. There was to be a share for each man, and the particular share was not named. I did not hear anything about money being furnished, only that their passages from St. John to New York were to be paid. I think it was Parr said this. Parr was present at one of these meetings. I was present at two meetings. I saw these two prisoners at one meeting. I did not hear anybody say they would go that I remember of. These prisoners were present at the last meeting. There was nobody there scarcely at the first meeting. I was there, the captain was there, and some of the boys. I do not know Collins; I can't say that I ever saw him before to-day. I have not seen McKinney since that night. I had no conversation with him at or since that meeting. Seely went over to Carleton in the same boat with me that night. We had no conversation. I think I saw him going down Prince William street the next morning. I could not tell who went away. I was at the steamer at Reed's Point before she left; saw McKinney and Seely there. The meeting took place about a week before we heard of the Chesapeake being taken. I saw these two prisoners at the boat next morning. I can't say that these prisoners agreed to go. It was asked at this meeting whether the parties would go. I can't say that I heard the persons present assent to go. I was not at the first meeting.

I had no conversation with McKinney or Seely before the meeting. I saw them the night of the first meeting in Carleton. They did not tell me then whether they were going; when we were on the road going (the two Coxes, myself, McKinney, Seely, and a man named George Robinson being together) they said they were going to the meeting. It was not stated to what place we were going. They (the prisoners) asked where we were going to; Robinson said they would find out when we got there. On the road they asked what we were going for, and were told, "to see the captain." Robinson wanted these boys to go over to the meeting, to go to New York to take a steamer. I heard some of them say they would go to the meeting and see what was going on. I can't tell what was talked of. Robinson, on the way, called at the Lawrence Hotel for Captain Parker, and he went with us. I heard of Parker wanting to raise a crew to go to New York three or four days before the meeting. On the last night of the meeting I went to see what conclusion was come to. It was said there that those who would go were to go the next morning in the American steamer. The prisoners, McKinney and Seely, belong to Carleton. Seely was brought up there, and McKinney I have known two years. I went to the steamer to see who was going, but I didn't calculate on going. The only ones I saw on board the boat, of those who were at this meeting, were McKinney and Seely. I might have passed them the time of day. I could not say whether they were on the boat when she left; I was going up the hill when she started. I was at the boat at a quarter of 8 a. m., and left before the boat left. I might have stopped five, or ten, or fifteen minutes. I was at the head of the wharf when she let go her fastenings. I think the prisoners might have gone in the boat, but I can't say where they went. I didn't see any funds at the meeting in Lower Cove.

Cross-examined by Mr. Gray: It was stated at the Lower Cove meeting that they were going on behalf of the Confederate States to take this vessel. I think it was said that the confederate government was to regulate the "share"—I can't remember distinctly. It was stated that the vessel would be a prize to the confederate government. Captain Parker said he had authority or commission from the confederate government; he produced a paper which was read over at the meeting. I don't remember that he stated what the paper contained. Captain Parker read the paper, commencing thus: "Jefferson Davis, President of the Confederate States of America." It was the size of the document now produced by Mr. Gray. [This was understood by spectators to be Captain Parker's commission.] I think the intention expressed at the meeting was that the vessel was to be taken for the Confederate States, or else they would not have gone. I heard that Captain Parker and Lieutenant Braine were officers in the confederate service at the same time that I heard they wanted to raise this crew for the confederate service for the purpose of taking this vessel. It was understood that she was to be taken for the confederates; and it was stated that these men were to be in the confederate service. I could not say that it was stated at this time that Parr was an officer in the confederate service. I was not close enough to read Captain Parker's paper.

[Mr. Gray proposed to put Captain Parker's commission in the witness's hands to identify. Mr. Wetmore strongly opposed this. The magistrate ruled in favor of its being placed in the hands of witness, and also that this could be done without the paper being first placed in the hands of the opposing counsel. The witness said he could not identify the document even if it was handed to him.]

Captain Parker read paper aloud and said it was his authority.

I did not see Braine the first night; I did the second night. He was called Lieutenant Braine. I don't remember of Parker saying that he was captain of the Confederate States privateer Retribution.

Re-examined by Mr. Wetmore: I heard from Captain Parker that this crew

was wanted. The steamer was to be brought to Grand Manan to land passengers. I did not expect to go. I did not know it was stated where those who went from here were to land. At the meeting it was talked of that the vessel was to be taken over to Nova Scotia. I do not know that any of the officers said so. I heard that the question was asked where the vessel was to be taken. I did not hear it stated that the vessel was to be taken to Nova Scotia and her cargo to be disposed of there. I don't know what "the share" was to be of. I did not inquire—do not know what they meant by it. Perhaps they were to divide the steamer and cargo. I can't say when or where they were to "divide." It was from Robinson that I heard that Parker and Braine were officers. Robinson belongs to St. Stephen, I believe. I went to the meeting just to see what was going on. I don't know that it was said at the meeting that the business was dangerous. It was not stated that they might get their necks stretched. It was distinctly said that they would be protected by the confederate government. It was not said what they were going to Nova Scotia for.

There was more squabbling among the lawyers to-day than on any other occasion since the commencement of the trial. The witness Watters appeared to give his evidence with considerable reluctance, probably on account of some of his Carleton friends being so directly concerned in the matter. At the conclusion of to-day's examination Mr. Gray agreed to consider a certified copy of the Chesapeake's register and coasting license as in evidence, as Mr. Wetmore said they were on their way here. This closed the case for the prosecution. As several of the lawyers will be engaged in the circuit court, which meets to-day, further investigation is postponed until Friday next.

The investigation into the charges against Collins, McKinney, and Seely was to have been resumed yesterday, but, on application of the honorable Mr. Gray, it was further postponed until next Thursday, as Mr. Gray had applied to the lieutenant governor for certain documents which the governor could not decide upon furnishing until he had consulted his law advisers. Mr. Gray intimated that he might ask the magistrate for protection to Braine, Parr, Locke, and others named in the warrant, in case they were wanted as witnesses. The magistrate seemed to be very emphatic in opposition to such a course. The *Globe* says that "the inference to be drawn from Mr. Gray's remarks in reference to the papers for which he had written was, that if they are not furnished he will ask that the magistrate issue a subpoena for bringing her Majesty's representative forward as a witness in the case."

[Enclosure 2 in No. 18.]

Mr. Tilley to Mr. Gray.

SECRETARY'S OFFICE, *Frederickton, January 15, 1864.*

SIR: I am directed by his excellency the lieutenant governor to inform you that his excellency has referred your letter of the 31st ultimo to the consideration of the law officers of the crown, and that in their opinion the parties on whose behalf the application contained in your letter was made are not legally, and as a matter of right, entitled to be furnished with the papers which you require, and that his excellency would accordingly be fully justified in declining to accede to your request.

The lieutenant governor is desirous that no misapprehension whatever should exist on this point. His excellency considers that it would be very objectionable to countenance the idea that the examining justice, a subordinate magistrate, should or could adjudicate on the legality of his excellency's warrant. This

warrant is issued for the purpose of enabling magistrates to take cognizance of cases which would otherwise be without their jurisdiction, and to receive evidence in the manner prescribed by the acts 26 and 27 Vict., cap. 76; but the grounds upon which his excellency thought proper to issue that warrant cannot possibly be a subject of inquiry before the magistrate, and it must therefore be distinctly understood by you that his excellency altogether denies your right to claim, at the present stage of the proceedings, copies of the documents referred to. At the same time, as his excellency could entertain no objection so far as he is concerned to give publicity to the contents of the papers in question, and as it would be a somewhat harsh and unusual measure to refuse to persons accused of crime materials which, with however little reason, they may consider as essential to their defence, his excellency was of opinion that, on the whole, it would not be improper for him to comply with your wishes. Previously to doing so, however, he thought it right to inquire whether any objection to this course would be made by the authorities of the United States in order that, should such objections exist, he might weigh their force and validity before arriving at a final decision. The answer of the United States consul at St. John to this interrogation was received yesterday, and his excellency now directs me to transmit to you certified copies of the papers for which you have applied. In doing so I am again instructed to repeat that his excellency cannot admit of any doubt being cast upon his discretionary power to grant or to withhold, as he may deem proper, documents of the character now under consideration, nor allow to pass unquestioned a claim the admission of which might in his opinion be fraught with inconvenience and possible danger to the public interests.

I have, &c.,

S. L. TILLEY.

No. 19.

The Duke of Newcastle to Lieutenant Governor Gordon.

DOWNING STREET, February 17, 1864.

SIR: With reference to your despatch of the 18th of January last, I have the honor to acquaint you that her Majesty's government consider that you exercised a wise discretion in allowing the accused persons in the case of the steamer Chesapeake copies of the requisition and warrant to which you refer.

I have, &c.,

NEWCASTLE.

No. 20.

Major General Doyle to the Duke of Newcastle.—(Received February 1, 1864.)

GOVERNMENT HOUSE,

Halifax, Nova Scotia, January 21, 1864.

MY LORD DUKE: I have the honor to inform you that on Monday, the 11th instant, an examination was held before his worship the mayor of this city into the charges against Drs. Almon and Smith and Mr. Keith, who were accused of having prevented the arrest of Wade by the police authorities after his tradition by an American man-of-war.

As many misrepresentations on this subject have appeared in portions of the

American press, which are calculated, if uncontradicted, to produce some bad feeling towards this province on the part of the American public, I considered it my duty to direct the attorney general to attend and watch the proceedings of this examination, and also caused a reliable shorthand writer to be present, by whom the evidence of the different witnesses on that occasion was carefully reported.

I have now the honor to transmit to your lordship a copy of the report of the attorney general, and also copies of the phonographic report of Mr. Bourinot, the shorthand writer above referred to.

I have lost no time in transmitting these reports to Lord Lyons, and herewith enclose to your grace a copy of the covering despatch which I addressed to his lordship on that occasion.

I have, &c.,

HASTINGS DOYLE.

[Enclosure 1 in No. 20.]

Mr. Johnson to Major General Doyle.

HALIFAX, January 13, 1864.

SIR: Having attended throughout the examination of the witnesses on the part of the crown against Drs. Almon and Smith, and Mr. Keith, charged with having obstructed the execution of a warrant, issued by the mayor against George Wade and others, under the extradition treaty with the United States and act of Parliament for carrying it into effect, I am enabled to comply with the desire your honor conveyed to me to furnish you with a summary of the result of the evidence.

The examinations occupied from 12 until half past 7 o'clock. The witnesses examined for the prosecution were the city marshal and three policemen; the sheriff of the county; Lieutenant Reyne, of the 16th regiment, and Myers Grey, esq., a barrister of this city. The witnesses were examined on the part of the defendants, the proceedings in that respect being *ex parte*. The general result of the testimony was more certain and clear as to the leading facts than usual in cases of such a nature, and concerning these, as far as this examination exhibits them, there cannot reasonably be mistake or misapprehension.

Your order that no large or indiscriminate crowd should be admitted within the gates of the Queen's wharf on the occasion in question was strictly carried out by Lieutenant Reyne, the officer in charge of the guard; and the perspicuity of this officer's testimony made it manifest that he had been a careful observer of all that passed.

With the exception of the acting policeman, whose natural excitement on such an occasion may account for some exaggerations, the witnesses variously stated about thirty, forty, and fifty as forming the whole number assembled, including persons in the commissariat employment, and in other public services.

Of this assemblage, there appears to have been probably about eighteen on the slip when the men were landed, and it was here that the transactions took place. The rest seem to have been dispersed about the wharf and open space at its head, which together form an area, as you are aware, of no inconsiderable extent.

On the slip were the United States naval officer, the high sheriff of the county of Halifax, your aide-de-camp Captain Clerke, the provincial secretary, the acting American consul, Lieutenant Reyne, and some other officials, together with three or four policemen, so that the number of unofficial civilians on this spot was trifling.

The three men to be given up were landed in irons. This was a cause of just offence to the public; it was an unnecessary continuance and exhibition of

the force which the rendition of the men acknowledged to have been illegal; and to the men, especially to the two citizens against whom no complaint existed, and who had suffered already over two days of rigorous confinement in irons, it was a needless prolongation of the wrong and indignity under which they had suffered.

This circumstance had excited a good deal of indignation in the city when it came to be known, but the evidence did not show that in the first instance, among the bystanders on the occasion, any ebullition of feeling from this or any other cause was made apparent.

The sheriff, before he accepted the transfer of the men, required the removal of the handcuffs; these were taken off by the American officer on the slip. Wade was the first released, and remained standing beside his fellow-prisoners while their irons were being taken off. The sheriff then informed the three men that they were free.

About this time a boat with two men was proceeding from the dock of the fish-market, the next adjoining to the north dock of the Queen's wharf, rowing, as was stated by some of the witnesses, and not contradicted by any, towards the stream in the direction that would lead the fisherman homeward. Dr. Almon stepped to the edge of the slip, and hailed this boat, beckoning to the men to come in; they did not hear or did not heed the first call, but in compliance with a second, changed their course and pulled into the slip, when Dr. Almon told Wade, who still stood unmolested on the slip, to get into the boat; he did so without any obstruction from any one, and the fisherman pushed off. The boat with Wade and the two fishermen on board had proceeded a short distance from the slip, when the policeman Hutt, to whom the warrant had been intrusted, rushed down to the water's edge, called aloud to bring back the boat, and presented a pistol towards the men in the boat, threatening to fire if they did not return. He said he used the Queen's name, and intimated that he held a warrant, but the other testimony did not corroborate this statement.

It is not clear whether or not Dr. Almon offered any obstruction, passive or direct, to Hutt as he rushed down the slip. It seems probable that he then called to the boatmen to push on, but it is certain that when the pistol was presented he interfered. Some of the witnesses say he threw up the constable's hand, in which he held the pistol, others that he pulled it down; a struggle, however, immediately followed, in which Dr. Almon was in actual, or in the view of the spectators in apparent danger from the direction of the pistol in the constable's hand. At this stage Dr. Smith interfered, seized the policeman's arm, and endeavored to wrest the pistol from him, or avert its aim from Dr. Almon, and Mr. Keith's interference followed with the same object.

Meanwhile the fishermen who had paused, and backed a little at the policeman's command and threat, were urged by Dr. Almon to proceed, which, after some hesitation, they did; and before the other policemen could reach them they had rounded the wharf, and being skilful and vigorous oarsmen were quickly hid from sight by the wharves and vessels, and no doubt were soon beyond the city limits, and the authority of the mayor's warrant and the policeman's authority.

There was nothing in the evidence to indicate concert between the fishermen and Dr. Almon, and nothing to raise the suspicion of concert between him and Dr. Smith or Mr. Keith, or any other of the bystanders. Beyond a cheer from the end of the wharf as the boat was moving past, and contradictory cries to the boat, while hesitating near the slip, some to go on and others not to go on, there was no interference, except by the three persons accused, and of two of them, Dr. Smith and Mr. Keith, taking the evidence of the most reliable witness, their interference was limited to the rescuing of Dr. Almon from apparent imminent danger in which he was placed from the pistol of the constable. Other questions arose, as whether the policeman Hutt could be known by any

distinguishing badges. He had not on the usual hat or cap, and his uniform coat was concealed by an overcoat, buttoned to the throat, leaving no insignia of office apparent beyond a button or two of the collar in front, but to a person not immediately in front of him, or at any distance, or not observing closely, he would not have been recognized as a constable. Again, the policeman swore he held the warrant in his left hand all the time, but no other witness testified to seeing it, and that was easily accounted for, because he showed how he held it; that is to say, doubled, and with his hand closed over it. These might have been important inquiries as regards the constable had any man in the boat been shot; as regards Dr. Almon, they were not important, as he knew Hutt's official character, and had seen the warrant.

The delay in arresting Wade the moment he was released was accounted for by the sheriff's having told Hutt, when he informed him he had a warrant, not to interfere till his (the sheriff's) duty had been completed, and to give a little interval. On the whole of the evidence it seemed that the policemen were secure of the arrest, as Wade should come up the slip, and were surprised and thrown off their guard by his retreat in the opposite direction, and as far as could be discovered from the evidence, his escape resulted from means that casually offered at an opportune moment.

Unquestionably the evidence afforded no ground for reports freely circulated that implicated the citizens at large, or any great number of them in the prevention of Wade's arrest at the time in question, or that gave to the transaction the character of a general or overpowering riot.

No arrest having been made, the case fell short of one of rescue, and the charge is confined to the obstruction of a police officer in the discharge of his duty, and the aiding of one accused of a high criminal offence to escape from justice. Dr. Almon, after some extended remarks, pleaded not guilty, and relieved the parties charged with him from any complicity with his act. Dr. Smith stated that he went to the wharf purely from curiosity, and had only interfered when he believed his interference necessary to avert bloodshed. Mr. Keith's statement was to similar effect.

They are under recognizance with sureties to appear at the supreme court at its next sitting in April, and the witnesses are or will immediately be under recognizances to appear to give evidence.

I am, &c.,

J. W. JOHNSON.

[Enclosure 2 in No 20.]

Major General Doyle to Lord Lyons.

GOVERNMENT HOUSE,

Halifax, Nova Scotia, January 20, 1864.

MY LORD: In consequence of the gross misrepresentations which have appeared in some of the American newspapers relative to what is termed by them "the rescue of Wade by a Halifax mob," and which appears to have caused so much bad feeling on the part of the American public towards this province, I considered it my duty to desire the attorney general to attend and watch the proceedings of the examination which took place a few days ago in the mayor's court, relative to the escape of Wade, and also caused a reliable shorthand writer to note the evidence given by the several witnesses. I have now the honor to transmit for your lordship's information a copy of the report which has reached me from the attorney general, and also copies of the phonographic report by Mr. J. C. Bourinot, the shorthand writer above referred to, by both of which documents your lordship will perceive that the circumstances detailed in the report of Lieu-

tenant Reyne, the officer of the guard at Queen's wharf on the occasion of the escape of Wade, which I had the honor to transmit to you with my journal of the 23d ultimo, and which formed one of the enclosures, have been fully substantiated, and it has been clearly proved throughout, that, instead of Wade having been rescued by a mob, there were not in all forty persons on the Queen's wharf, which is a large one, the civilians among them all of respectable position.

It is also clearly shown that no rescue ever took place, although there is no doubt the arrest of Wade was obstructed by Dr. Almon, Dr. Smith, and Mr. Keith; the first named having called a boat which was proceeding in the stream, into which Wade jumped, and by which means he escaped. The two latter gentlemen appear to have been but slightly implicated, as they do not seem to have taken any part in the matter until after the struggle between Dr. Almon and the constable, who was presenting the pistol at the boat, had commenced. It will also be observed that not a shadow of evidence proves that there was any concert or premeditation to obstruct the arrest of Wade.

The concluding paragraph of the printed evidence will show that Messrs. Almon, Keith, and Smith have entered into a joint bond for £200 each, with two securities in £100 each, for their appearance at the supreme court in April next.

This examination having been taken on oath will, I trust, prove to your lordship and the American government how grossly the real facts have been misrepresented by the generality of the American press, and that I have done all in my power to vindicate the law by taking the necessary steps to punish the alleged offenders of it.

I have, &c.,

HASTINGS DOYLE.

[Enclosure 3 in No. 20, supplement to Halifax Reporter of January 19, 1863, printed elsewhere.]

No. 21.

Lord Lyons to Earl Russell.—(Received February 16.)

[Extract.]

WASHINGTON, *February 1, 1864.*

I have the honor to transmit to your lordship further papers relative to the affair of the Chesapeake.

The first of them is a letter from Mr. Seward, stating the impression produced by the papers which (as I had the honor to report to your lordship in my despatch of the 18th ultimo) I placed in his hands on the 16th instant. Your lordship will observe that Mr. Seward, while acknowledging that the proceedings of Major General Doyle, the administrator of the government of Nova Scotia, seem to have been conducted in good faith, affirms that his excellency "ought to have relinquished to the agents of this government the stolen vessel, and the pirates found on board of her, subject to the express engagement of this government to answer to the British government any claim that it might have either upon the ship or the men."

Mr. Seward seems to forget the flagrant violation of her Majesty's territorial jurisdiction committed by the United States officers, and the necessity it imposed on the administrator of the government to be more than usually careful to make it apparent that her Majesty's rights had been vindicated. It may be observed, also, that there were no persons found on board the Chesapeake to whom the

description of "pirates" can well be applied. The two men who were on board and who were seized and put in irons by the United States officers, when they took possession of the vessel in the British harbor, appear to have been British subjects who had gone on board the Chesapeake after her arrival at Nova Scotia, and who had no connexion with the previous seizure of that vessel by the passengers. The only man taken by the United States officers who was implicated in that act of the passengers was Wade, who was not taken on board the Chesapeake, but was violently seized by those officers on board a British ship in a British harbor.

I have thought it right to communicate a copy of Mr. Seward's letter to Major General Doyle.

I have to-day placed in Mr. Seward's hands copies of the letter of the attorney-general of Nova Scotia, and of the report of the proceedings against the persons concerned in preventing the arrest of Wade at Halifax, which form the fourth and fifth enclosures in the present despatch.

The remaining enclosures relate principally to the demands on the governments of Canada and New Brunswick for the extradition of men concerned in the seizure of the Chesapeake at sea.

[Enclosure 1 in No. 21, Mr. Seward to Lord Lyons, dated January 18, 1864, printed elsewhere in this volume.]

[Enclosure 2 in No. 21.]

Lord Lyons to Major General Doyle.

WASHINGTON, *February 1, 1864.*

MY DEAR GENERAL DOYLE: I enclose a copy of a semi-official letter, dated the 18th instant, which I have received from Mr. Seward, and in which he comments on the papers concerning the affair of the Chesapeake, which, as I informed you in my despatch of the 18th, I put into his own hands a day or two before.

I do not object to your making the members of your government acquainted with the contents of Mr. Seward's letter, if you consider it important to do so.

Yours faithfully,

LYONS.

[For enclosure 3 in No. 21, Major General Doyle to Lord Lyons, January 20, 1864, see enclosure 2 in No. 20.]

[For enclosure 4 in No. 21, Mr. Johnston to Major General Doyle, January 13, 1864, see enclosure 1 in No. 20.]

[For enclosure 5 in No. 21, supplement to the Halifax Reporter, dated January 19, 1864, see enclosure 3 in No. 20.]

[Enclosure 6 in No. 21.]

Lord Lyons to Major General Doyle.

WASHINGTON, *February 1, 1864.*

SIR: I had on the 28th ultimo the honor to receive your excellency's despatch of the 20th ultimo, transmitting to me information respecting the proceedings

against the persons charged with obstructing the execution of the warrant for the arrest of Wade.

I have put into the hands of the Secretary of State of the United States copies of the letter addressed to your excellency by the attorney general of Nova Scotia, and of the printed report of the proceedings before the mayor of Halifax.

I have, &c.,

LYONS.

[Enclosure 7 in No. 21.]

Viscount Monck to Lord Lyons.

GOVERNMENT HOUSE, QUEBEC,
January 20, 1864.

MY LORD: I have the honor to acknowledge the receipt of your excellency's despatch of the 13th, enclosing copy of a note from the Secretary of State of the United States, demanding the extradition of John C. Braine, H. A. Parr, John Parker Locke, *alias* Vernon G. Locke, David Collins, George Robinson, and John Wade, fugitives from the justice of the United States.

In reply I have the honor to inform your excellency that I have referred this application to the law officers of the crown in Canada for their report.

I have, &c.,

MONCK.

[See enclosure 8 in No. 21.]

Lord Lyons to Mr. Seward.

WASHINGTON, January 30, 1864.

[Printed elsewhere in this correspondence.]

[Enclosure 9 in No. 21.]

Lieutenant Governor Gordon to Lord Lyons.

[Extract.]

GOVERNMENT HOUSE, FREDERICKTON,
New Brunswick, January 21, 1864.

I have the honor to acknowledge the receipt of your lordship's despatch of the 5th instant, and am gratified to learn that the cabinet of Washington appreciates the prompt action of this government in reference to the alleged piratical seizure of the United States steamship Chesapeake.

A determination to observe in the strictest manner the requirements of international law, and to fulfil every obligation of international courtesy, will, I trust, always be found by the government of the United States to exist on the part of this province.

In my despatch of the 28th ultimo I informed your lordship that I had issued my warrant, authorizing the arrest of the parties implicated in the transaction referred to. Since that date three of those persons, David Collins, James McKinney, and Linus Seeley, have been arrested at St. John.

The honorable J. H. Gray, of St. John, one of the counsel for the accused, applied to me on the 31st ultimo on behalf of his clients for copies of the requi-

sition upon which my warrant authorizing the arrest was founded, and of the depositions which accompanied it.

I accordingly transmitted the required documents to Mr. Gray, at the same time stating my reasons for declining to entertain his application as a matter of right, whilst I acceded to it as an act of courtesy for which persons in the position of the accused might fairly look. At the same time I informed the United States consul of my decision.

[Enclosure 10 in No. 21.]

Lord Lyons to Lieutenant Governor Gordon.

WASHINGTON, *February 1, 1864.*

SIR: I have the honor to acknowledge the receipt of your excellency's despatch of the 21st of this month, informing me that three of the men implicated in the affair of the Chesapeake had been arrested at St. John, and that your excellency had communicated to their counsel copies of the requisition upon which your warrant authorizing their arrest was founded. I am very much obliged to your excellency for the information you have been so good as to send to me with regard to the communication of the requisition. The subject has not hitherto been mentioned to me by the Secretary of State of the United States, nor have I spoken to him about it.

I am, &c.,

LYONS.

No. 22.

Major General Doyle to the Duke of Newcastle.—(Received February 16, 1864.)

GOVERNMENT HOUSE, HALIFAX, NOVA SCOTIA,
February 4, 1864.

MY LORD DUKE: In accordance with the promise which I have made to your grace to keep you informed of any further steps which may have been taken in this colony with regard to the affair of the Chesapeake, I have now the honor to transmit the copy of a report which I have called upon the advocate general of the court of vice-admiralty to make to me on certain proceedings which have transpired in that court with reference to the above-mentioned vessel.

I have, &c.,

HASTINGS DOYLE.

[Enclosure in No. 22.]

Mr. Johnson to Major General Doyle.

HALIFAX, *February 11, 1864.*

SIR: I have to inform your excellency that yesterday, in the vice-admiralty court, motions were made upon claims asserted on behalf of owners of British goods, part of the cargo of the steamer Chesapeake, and as advocate general, having previously examined and been satisfied with the proofs, I signed consent to restitution upon payment of any salvage and costs that might attach. The judge intimated that he would on Friday (to-morrow) make order respecting salvage, costs, &c. Motion was also made upon a claim asserted for the ship and also for all the cargo not specifically claimed. The proofs sustaining the claim

for the ship were not free from some objections, but on the whole I thought they might be considered as sufficient in the first instance, and consented to restitution upon security being given to meet latent claims, and upon payment of any salvage and costs. The claimants' proctor took time to ascertain his ability to find security.

The claim asserted for the cargo not specifically claimed by the party claiming the ship, and as going with her, was not recognized, and stands over, in case it should be deemed advisable to move in it hereafter, where, after longer time has been allowed for specific claims, the objections may be less effective than at present.

I have, &c.,

W. J. JOHNSTON.

No. 23.

The Duke of Newcastle to Major General Doyle (and Lieutenant Governor Gordon.)

DOWNING STREET, *February 22, 1864.*

SIR: With reference to the correspondence which has passed on the case of the Chesapeake, I have the honor to inform you that, on the subject of the violation of British territorial jurisdiction by the officers of the United States steamer *Ella* and *Annie* in their pursuit of the persons who had seized the Chesapeake, the United States government have made a full and unqualified apology, which her Majesty's government have accepted in the same friendly spirit in which it has been offered, and with a feeling of satisfaction that the matter has been settled in a manner honorable to both parties, and calculated to improve the good relations between the two governments.

I have, &c.,

NEWCASTLE.

No. 24.

Lieutenant Governor Gordon to the Duke of Newcastle.—(Received February 16, 1864.)

FREDERICKTON, *February 1, 1864.*

MY LORD DUKE: I have the honor to transmit for your grace's information a report of the evidence adduced in the case of the Chesapeake, since the date of my last despatch on the subject.

Your grace will probably be surprised to find an investigation commenced before the police magistrate on the 28th of December still unconcluded.

I have also the honor to enclose copies of further correspondence between the Hon. J. H. Gray and myself.

I have, &c.,

ARTHUR H. GORDON.

[Enclosure 1 in No. 24.]

Newspaper Extracts.

The Chesapeake investigation is being spun out to an interminable length. On Thursday the evidence against the prisoners was read over to them, and

they plead "Not guilty" to the charges of piracy and murder, and declared that what they did was done in behalf of the Confederate States; that they had no intention of doing anything criminal; that they believe they have not so done. To meet the wishes of Mr. Gray, further investigation was postponed until Tuesday next, when that gentleman will enter on the defence, and will submit, as he alleges, both documentary and oral testimony. People are curious to know whence the "oral" proof is to come. Mr. Gray submitted copies of the depositions, on the strength of which the lieutenant governor issued his warrant for the arrest of the Chesapeake's captors.

The Chesapeake Case.

We reprint, from the Morning News, the evidence put in in this interminable case yesterday. The court adjourned until 11 o'clock to-morrow morning, a fact that we hope the counsel for the prisoners will not overlook. One of the Halifax papers says that some evidence has been sent from that city that will put a materially different face upon the matter, in favor of the defence:

John Ring was then called and sworn.—I live in Carleton; have lived there all my life. Know McKinney and Seely, two of the prisoners. Knew Waters, who gave evidence the other day. I was at meetings in Lower Cove when a proposal in reference to taking a vessel was named. It was proposed to take men for the confederate service. I saw a man there called Braine, and another called captain. Did not see a person called Parr at either of the two meetings, both of which I attended. Another man, in presence of the captain, showed what was his (the captain's) authority. I knew it by a large seal, upon which was what I took to be a man's head and body; it was on the left hand near the corner. There was another seal on the right-hand side; it looked like a blot. I saw Jefferson Davis's name at the bottom. I swear that that is the identical paper that was read at the meeting. The man had just concluded the reading of the paper when I entered. [Mr. Gray wished the paper to be read by the witness, but Mr. Wetmore objected, and the magistrate ruled that he could not receive the paper in evidence unless proved genuine. Mr. Gray wished it to be read merely to show the animus of the parties, not the genuineness of the document.]

Cross-examined by Mr. Wetmore: The blot looked dark. I can't say whether both seals were on the same side or not.

John Tricartain sworn.—I live in Carleton; was born and brought up there. Was not at both meetings in Lower Cove; was at the last one. Waters and Ring were there. A man called Braine was there. I was introduced to Captain Parker. Asked Parker for his authority. He pointed to a gentleman present who, he said, would show his authority. The gentleman took a white envelope from his pocket, and drew out a paper, on the back of which there was a small seal. I saw the large seal when it was opened. Heard it read. It commenced with "Jefferson Davis, President of the Confederate States of America." Jefferson Davis's signature was at the bottom.

Cross-examined by Mr. Wetmore: I identified the document by the seal, and by the name Jefferson Davis at the bottom, written out in full. I saw it once since in Mr. Gray's office. It was Thursday last, about 7 o'clock in the evening. I went there to see Mr. Gray, as I understood he wished to see me. Mr. Gray, Ring, another gentleman (meaning Mr. Weldon,) and myself were there. Mr. Gray asked me to give him a description of the paper. I did so, and he then handed it to me. [Here Mr. Gray was about handing the paper to witness for the purpose of identification, when Mr. Wetmore objected to allow it to be placed in witness's hand, unless he (Mr. Wetmore) should first be allowed to read it.]

Re-examined by Mr. Gray: I identify the paper, which, as folded, you have placed in my hands. The red seal shown to me is the one which was on

the paper on that occasion. I saw the seal when the paper was read. I looked at it for about five minutes. I examined it close enough to know that that was the seal; there was a diamond stamp on it. Will not undertake to say there was a name alongside, nor that the paper was witnessed. I swear to the paper from the little seal on it.

The Chesapeake affair.

POLICE COURT, Saturday.

At 11 o'clock this morning the court was crowded, it having leaked abroad that some gentlemen from the south were to give evidence which would materially affect the case. There were four of them; one pretty well advanced in years and of a robust frame, with a Celtic cast of countenance. The next was a man of perhaps thirty years of age, with long flowing hair, and a moustache and beard falling from the lip and chin, which he incessantly teased and stroked, while his cheeks were clean shaven. The third is a handsome-looking young man of about twenty-five, one who might, from the influence of wealth or family, get a position of trust, which he would no doubt fill mechanically, but no one would take him for one who, by natural ability, would attain either name or position in the world. The fourth is a harmless-looking youth, who would pass for a respectable grocery clerk, possessing no particular talent or quality. After some wrangling among the lawyers, the commission, duly certified, establishing a court of admiralty in the province, was received as evidence. Some other documents which were found not to be properly certified to on a previous occasion were now brought forward and admitted. The examination of witnesses then proceeded.

Dr. Luke P. Blackburn, from the Confederate States, the old man referred to, was placed upon the stand, and testified :

I am a resident of Natchez, Mississippi; have been medical director of the State of Mississippi since January last; was president of the Medical Commission in the State; left the confederacy on the 16th July last. I am a native of the State of Kentucky; have resided in Natchez since March, 1846, and have been connected with the army since the difficulties commenced. I am intimately acquainted with Jefferson Davis, the President of the Confederate States; I have corresponded with him and know his handwriting. I also know the seal of the Confederate States. The seal and flag of the Confederate States were changed in May last. I know Mr. Benjamin, late Secretary of State for the confederacy, and know his handwriting. In October, 1862, he was Secretary of State. The provisional government was established in April, 1861. Mr. Benjamin was Secretary of War for a short period—about six weeks, I think—in 1863; he is now Attorney General. I have an intimate knowledge of Jefferson Davis's handwriting, and believe that the writing (on a document furnished him by Mr. Gray) is Mr. Davis's writing. I am not so expert but that my own writing might be forged upon me. I am not so certain about Mr. Benjamin's, but I think that the signature here is that gentleman's writing. The seal on the document is that of the provisional government. The seat of government was removed from Montgomery to Richmond. A war now exists between the northern and southern States. There is an exchange of prisoners between them. They treat each other generally as belligerents. I arrived in the city this morning; came from Frederickton; ran the blockade and came to Montreal, and from thence here. My family reside in Louisville, Kentucky. I am now on my way home. The confederate government grants letters of marque; did so in 1862. Charleston is in the State of South Carolina, in the Confederate States, and likely to remain there. (The letter of marque to Captain Parker, of the ship "Retribution," was then read.) In 1862 the States of Texas, Louisiana, Arkansas, Missouri, Kentucky, Tennessee, Mississippi,

Alabama, Florida, Georgia, North Carolina, South Carolina, Virginia, composed the Confederate States, making thirteen altogether, and each had representatives in the Confederate Congress.

Alonzo G. Coleman being sworn, testified :

I am a resident of the Confederate States, was born and brought up there, and a native of Alabama. My father had large estates in that State before the war commenced. I have been engaged as private in the army of that State since May, 1861. There are a great many other gentlemen of rank acting as privates.

Mr. Gray asked the question if officers appointed to a particular duty have the authority to appoint others under them to that post, and to delegate that authority of carrying out their duty or to aid in carrying it out?

Mr. Wetmore objected to this, as being inadmissible as evidence in the present case.

Mr. Gray contended that the laws of any country are respected and recognized by other nations. But the counsel for the prosecution argued that the witness, in order to answer the question, must be acquainted with the law; and even then he doubted if it could be taken as evidence. He did not want to know what the practice was, but what the law in this case was.

The witness stated that when an officer has not a sufficient number of subordinate officers, he has appointed even privates to act as lieutenants, and he had himself acted as lieutenant commanding an outpost. He afterwards stated that they had the authority to do so according to the practice of the service of the confederacy.

It being now 1 o'clock, the magistrate adjourned the case till after dinner.

[Enclosure 2 in No. 24.]

Mr. Gray to Lieutenant Governor Gordon.

ST. JOHN, January 14, 1864.

MAY IT PLEASE YOUR EXCELLENCY: In the communication from Captain Moody of the 2d instant, by your excellency's commands, in answer to my application for copies of the requisition and documents laid before your excellency by the United States consul, upon which your warrant to arrest certain parties engaged in the taking of the Chesapeake was based, he stated your excellency would consult the law officers of the crown, and give me a reply with the least possible delay.

The preliminary investigation on behalf of the American government having closed, we shall be expected to-morrow to disclose to the police magistrate the grounds on which the application of that government is resisted on behalf of the prisoners. Towards that purpose, Mr. Weldon and myself both consider the papers laid before your excellency, copies of which have been required by me, as of the utmost importance, and we are so clear as to the right of the prisoners to that information, based upon the highest judicial decisions in the court of the United States, arising out of this very treaty, that we would feel we were not discharging our duty were we not to take all those steps which the law will permit to obtain them.

Such papers can in no respect be confidential. They are the legal initiatory steps which are necessary to clothe the tribunals of this country with the power of action. A right to test the jurisdiction before which a prisoner is arraigned in a case so exceptional as the present is undoubted. And in case of a commitment for surrender by the examining magistrate, and a subsequent inquiry into that commitment by *habeas corpus*, these preliminary steps are scrutinized by the judge and pronounced sufficient or insufficient, as to him may seem right.

In a matter, therefore, which involves not the liberty only, but perhaps the lives of the three prisoners, we are sure your excellency would condemn their counsel if they were to permit themselves to be restrained by any false delicacy from omitting to get before the examining magistrate the documents they think essential to their defence.

We believe that the court has power to issue a subpoena to your excellency to bring those documents before it; and with the highest respect for your excellency personally, and the exalted position you fill, we must ask the court for that subpoena unless they are furnished.

We do not apprehend that the counsel for the United States government would require your excellency to be personally present, and we should be content with copies, if the court will admit them. I address your excellency at this time because, not having received the reply referred to by Captain Moody, and being compelled to act, we must take those steps which the prisoners' rights demand. We have also to request that your excellency will produce or furnish the original commission constituting the court for the trial of piracy and murder and other offences committed on the high seas, dated at Westminster, April 11, 1829. A copy of this I got from Judge Parker, but the magistrate may require the original.

I have, &c.,

J. HAMILTON GRAY.

[Enclosure 3 in No. 24.]

Mr. Tilley to Mr. Gray.

FREDERICKTON, *January 21, 1864.*

SIR: I am directed by his excellency the lieutenant governor to acknowledge the receipt of your letter of the 14th instant, addressed to his excellency.

As his excellency had, before the receipt of this letter, determined upon the course which he would pursue with respect to the matter of which it treats, and has already acted on that determination, he considers it unnecessary at present to discuss the questions raised by you when in ignorance of his excellency's decision.

I have, &c.,

S. L. TILLEY.

No. 25.

Lieutenant Governor Gordon to the Duke of Newcastle. — (Received March 1, 1864.)

FREDERICKTON, NEW BRUNSWICK,
February 15, 1864.

MY LORD DUKE: I have the honor to enclose, for your grace's information, an account of the proceedings which have taken place before the police magistrate at St. John, since the date of my last despatch, connected with the seizure of the steamer *Chesapeake*.

Your grace will perceive that this protracted examination is not even yet concluded.

I have, &c.,

ARTHUR H. GORDON.

[Enclosure in No. 25.—Newspaper extracts.]

Examination of the Confederates.

ST. JOHN, NEW BRUNSWICK,
Saturday, January 31, 1864.

Owing to the presence at the police court of several gentlemen belonging to the Confederate States who were expected to give evidence for the defence in the Chesapeake case, the court on Saturday was crowded to excess with a most respectable audience, and the greatest interest was manifested in the proceedings. The first witness examined was Dr. Luke P. Blackburn, of Natchez, State of Mississippi, a person whose bearing bespoke the true gentleman. The doctor had filled the office of medical director of Mississippi, and was intimately acquainted with President Davis and his handwriting, and with the seal of the southern confederacy. He identified the signature and seal on Captain Parker's commission, placed in his hands by Mr. Gray. He also testified to the confederacy issuing letters of marque in 1862. The next witness was Mr. Alonzo G. Coleman, a native of Alabama, whose father owned plantations in that State previous to the war, but the son (the witness) nevertheless took his place as a private in the ranks. In answer to Mr. Gray, he said it was a recognized practice of the confederate service for officers appointed to a certain duty to delegate their authority to others, even to privates, and that such acts were recognized by their commanding officers of all grades and by the enemy. The persons thus delegated would, if captured by the federals, be treated as prisoners of war. Captain Thomas Herbert Davis was the third witness from the confederacy. He had served under Generals Beauregard, Joseph Johnston, and Lee. His last corps general was Longstreet. He had entered Fort Moultrie as a volunteer when the Star of the West attempted to succor Fort Sumter at the opening of hostilities and had fought his way up to a captaincy, which position he held when wounded and captured at Gettysburg by the federals. He had been confined with other confederates at Johnson's island, from which he escaped on New Year's night, walking some 120 miles to Canada. He also testified to the practice among officers of delegating authority to their subordinates to perform certain duties, and said he had exercised such authority himself. Mr. Ephraim Tom Osburn, a young man of probably twenty-seven years, of Kentucky, a non-commissioned officer under the celebrated General John H. Morgan, and who had also escaped from a federal prison, Camp Douglass, in December, corroborated the testimony of previous witnesses respecting the delegation of authority. All of these southerners gave their evidence with marked precision and in the frankest manner, furnishing a remarkable contrast in style and manners to some of the witnesses for the prosecution.

A fourth witness was Mr. Eben Locke, brother of Vernon G. Locke, better known as Captain John Parker, who ordered the seizure of the Chesapeake. He is a native of Shelburne, Nova Scotia, but now resides to the eastward of Halifax. He saw his brother in Nassau in May last, in command of the confederate privateer Retribution, and his brother there showed him his commission. He saw him again at Sambro, after the recapture of the Chesapeake, and took him up to Halifax where he again was shown the commission by his brother. The witness identified the commission produced by Mr. Gray as the one he had seen and handled and examined at Nassau and Halifax. He remembered "the writing on the back" distinctly—an indorsement, we believe, from one Power to Locke or Parker. The witness said he believed his brother changed his name when he took command of the Retribution, he supposed for the purpose of deceiving the enemy.

Mr. Gray tendered in evidence a copy of a commission sent out to this province by Lord Bathurst for establishing a court for the trial of cases of piracy,

and also the Royal Gazette containing a copy of the Queen's neutrality proclamation of May 18, 1863, in which the Confederate States are recognized as belligerents.

Yesterday the police court was again crowded with spectators who expected to hear the testimony of another "distinguished southerner" whom Mr. Gray was to have on hand. But the gentleman did not make his appearance, and the court adjourned until Saturday, with the understanding that a further adjournment would then be granted until Wednesday next. In the mean time the leading counsel on both sides have court business which takes them to Frederickton for a week or more.

Examination of the Confederates.

WEDNESDAY, February 10, 1864.

In the police court yesterday morning the business was confined to proving the authenticity of certain papers under whose authority the captors of the Chesapeake profess to have acted in making the seizure. The first of these was Parker's order to Braine to take the vessel; the second, Parker's order to Collins making him second lieutenant in the confederate service; and the third, the order of transfer of the Confederate States privateer Retribution from Captain Power, her former commander, to the command of Captain Parker. As respects the two first, Captain Driscoll being sworn, deposed that he knew Parker's handwriting, and had once seen him write, and that the signatures appended to the documents in question were his, to the best of his knowledge and belief. Mr. Watson, clerk to W. & R. Wright, was examined. The register, or certificate of transfer, of the confederate schooner Kate Hale to British ownership, drawn in the spring of 1862, to which the name of W. F. Colcock, collector of the port of Charleston, South Carolina, was appended as a witness, was produced, in order to compare that signature with a similar one attached to the order of transfer of the Retribution from Power to Parker. Witness believed the former to be genuine, inasmuch as the certificate of registry was an official document, received and recognized as such by the custom-house officers at this port; and although he could not swear to the handwriting of Collector Colcott, the two signatures were obviously written by the same person, and to the best of his belief were Colcock's. Counsel for prosecution demurred at accepting this testimony, but it was finally received by the presiding magistrate.

The court adjourned to Monday next, with the understanding that the lawyers would then commence their arguments on the case. Mr. Weldon thought another witness for the defence might be on hand by that time. If the witness arrives, his evidence will be received.

No. 26.

Major General Doyle to the Duke of Newcastle. — (Received March 1, 1864.)

GOVERNMENT HOUSE, HALIFAX, NOVA SCOTIA,
February 18, 1864.

MY LORD DUKE: I have the honor to transmit documents containing a particular account of the circumstances which have taken place since the Chesapeake was placed in the vice-admiralty court. The affidavits indeed narrate those which occurred at the original taking of that vessel, and also afterwards to the period of her recapture by the United States war-steamer Ella and Annie.

I thought it best to send these papers to your grace, (which have been printed in a pamphlet form by order of the judge,) although I had previously sent slips from newspapers containing some of the information which will be found in these documents.

Your grace will see that Judge Stewart had originally taken the same view of the law as applicable to this case, as is contained in the opinion of the imperial crown officers communicated to me in the enclosure to your despatch of the 23d ultimo, marked "Nova Scotia, confidential," which I received by the last mail, and which I deemed it right to show to the judge and the crown officers. Moreover, your grace will observe by these documents and the judge's remarks on directing the vessel and cargo to be restored, that her Majesty's advocate general consented to the writ of restoration being awarded without bail, and your grace will also perceive that the difficulty which the imperial law officers of the crown apprehended from placing the Chesapeake in the vice-admiralty court has thus fortunately not arisen.

Trusting that the course I have pursued in this most embarrassing case may give me the honor of your grace's approval,

I have, &c.,

HASTINGS DOYLE.

[Enclosure in No. 26.]

Report of proceedings in the vice-admiralty court of Halifax, Nova Scotia, respecting the Chesapeake.

Court of vice-admiralty.

HALIFAX, *February 15, 1864.*

Judgment was this day given by the Hon. Alexander Stewart, O. B., judge of the vice-admiralty court, in the cause No. 211 of the Queen *vs.* The steamer Chesapeake and cargo.

The advocate-general for the crown.

J. W. Johnston, J. W. K. Johnston and Isaac J. Wylde, esquires, advocates and proctors for portions of the cargo.

The Hon. S. L. Shannon, advocate, and William Morse, esquire, proctor, for the vessel and the remainder of the cargo.

On the 6th of January last, the advocate-general exhibited affidavits of himself made before the registrar, and copies of three affidavits made before the mayor of this city, by James Johnson, George Ames, and Mary V. Burgoyne, and also the affidavits of William Henry, Alexander Henry, John E. Holt, and Patrick Conners, sworn before the registrar, (copies of all which affidavits are attached to this judgment.) Upon these affidavits he moved for a warrant to arrest the steamer Chesapeake and cargo as having been piratically taken on the high seas from her lawful owners, which I granted. It was issued on the same day, made returnable on the 12th, executed on the 7th, and returned and filed in the registry on the 9th of January. On this last day he moved for a commission of unlivery, which I granted, informing him that he might cause the cargo to be unladen or not, as in his discretion he should think fit.

On the 18th he placed it in the hands of the marshal, who on the 29th returned it executed (with inventory attached to it) unto the registrar.

No appearance on behalf of the captors of the Chesapeake having been filed on the return day of the warrant of arrest, they were, on the petition of the procurator general, in the usual manner pronounced in default.

Claims by British owners for parts of the cargo have been allowed, viz., to Ross & Co., of Quebec, for 109 hogsheads of sugar; to Belony & Lamotte, for 10 hogsheads of tobacco and a box of tinfoil; to Charles Sampson, for 1 cask of augers; and to James McInlay for 5 rolls of sole-leather; and her Majesty's advocate general having consented thereto, I decreed writs of restitution.

On the 10th of February, Mr. Morse, on behalf of the owners of the vessel, moved for the admission of their claim that the vessel be restored to them, and that the remainder of the cargo (which is unclaimed, and which is owned in part by British subjects and in part by American citizens) should be delivered to them, in order that they might carry the same to the original port of destination, Portland, in the United States, and there deliver it to those who were entitled to receive it. The advocate general has examined this claim, and consented that a writ of restitution thereof be granted without bail, to answer prospective or (what are in this court designated) latent claims. And upon this claim I am now giving judgment. But it is obvious that thus granting this claim and the restoration prayed for will terminate this case. These claimants are citizens of the United States of America; the vessel is an American steamer; and I may mention that, as an additional ground for the delivery of the unclaimed cargo to them, they allege that they have a lien thereon for freight. It is the ordinary practice of this court to direct property taken by pirates to be returned to the owners without delay, and, except where there is a strong necessity for requiring it, without bail for latent claims, taking care to protect the rights of the salvors and the droits of admiralty. At this period it is incumbent on me to state that I adhere to the opinion I expressed on the 9th and repeated on the 12th of January. I do not at all controvert the legal principles suggested at the bar as worthy of my consideration, but I do not perceive their applicability to the circumstances of the present case. But whether I be in error or not, whoever or whatever they are who seize the vessel, and whatever in their own or in their counsel's estimation their rights may be, they have not thought fit to vindicate them before this court. They have, as I have just noticed, suffered judgment by default.

I have been much embarrassed in dealing with this case. To grant this application will be entirely within the rules applicable to it, for, on the facts sworn to, the taking was undoubtedly a piratical taking. But in its origin, in its position before the court, in the mode of the recapture, in short, in all the concomitant circumstances, the case is very peculiar. I was, therefore, in the absence of decided cases, obliged to recur to and rely on for my guidance those principles which lie at the basis of all law. And I do not think I shall be acting unbecomingly in referring for a few moments to those principles.

The right of self-defence is one of the fundamental attributes of an independent state, and the principles which regulate its conduct towards other states have their foundation in a higher philosophy than that which underlies the municipal or positive law. The latter implies a ruler to prescribe, and a subject to obey. An independent state recognizes no superior, acknowledges no authority paramount to its own. Underneath international law lies the *ultima ratio regum*. Every independent state determines for itself, as exigencies arise, what shall be the penalty for infractions of the law which it prescribes. The sovereign whose territorial rights are violated by the subjects or citizens of a friendly state is not bound to appeal for reparation to (what might be) the tardy justice to be conceded by that state. If those subjects or citizens are within its territory, it will inflict on them its own penalty, in its own mode. An independent state is not circumscribed by the limits which are essential to the administration of municipal law, since by it the agents of the community protect from the aggression of the wrong-doer the individuals of which it is composed. Then if one of the Queen's subjects had violated the municipal law as flagrantly as the captors of the Chesapeake have outraged the international law, and such violation would have (as it unquestionably would) justly subjected the offending vessel to forfeiture, shall those who have violated the higher law be subjected to a less penalty? Assuredly not.

Then as to the right disposal of the forfeited vessel. It were derogatory to the royal dignity to add the proceeds of property which had belonged to the

citizens of a friendly nation to the privy purse of the Queen, and it would as little become the honor of the British nation to make profit out of their misfortune.

What more appropriate mode of dealing with this vessel and cargo, then, than to restore them to their original owners;—not as a favor to them, but as an act of justice to the offended dignity of the crown; not as recognizing any right of the government of the United States to require such restoration, but as a fit punishment of the offenders, and a warning to others. The law which the Queen and the Parliament have prescribed to enforce the observance of her neutrality is to be found in her Majesty's proclamation, and in the statute under the authority of which it was issued. Is the offence which I have suggested against the municipal law, or can any offence be more serious than that by which the British nation might be drawn into the sad contest which has desolated and is still desolating one of the fairest portions of the earth?

By the affidavits on which I granted the warrant it is certain that the Chesapeake, if a prize at all, is an uncondemned prize. For a belligerent to bring an uncondemned prize into a neutral port, to avoid recapture, is an offence so grave against the neutral state that it *ipso facto* subjects that prize to forfeiture. For a neutral state to afford such protection would be an act justly offensive to the other belligerent state.

The Chesapeake was brought, not into one port only, but into several of the ports of this province; not openly, but covertly; not in her proper name, but in a false name. Still further, they who thus invaded the Queen's territory, surreptitiously landed and sold therein a considerable portion of her cargo, making no distinction between those parts of it which were owned by the subjects of her Majesty and those belonging to the citizens of the United States; and instead of vindicating the rights which it was asserted for them at the bar they possessed, they (after landing on the shores of this province, and thus being under the protection of British law) have long since fled from and are still fugitives from it.

These are the facts on which I deemed it right to recommend at once that the vessel should not be unladen or removed from the custody of the provincial government, in order that she might be restored intact to her owners. I then thought, I still think, that it would not consist with the dignity of her Majesty, though the capture had been a lawful one, to hold valid a plea on behalf of these persons. The facts I have just mentioned must have been admitted, for they are in their nature incontrovertible.

This court has no prize jurisdiction, no authority to adjudicate between the United States and the Confederate States, or the citizens of either of these States. Yet, if a claim to the vessel and cargo could have been sustained, all further jurisdiction on my part over them must have ceased, and they must have been further disposed of by competent authority, and it would have in that case been my duty to have examined into the question of prize. As the case at present stands, I am rightfully exercising jurisdiction; for the facts disclosed by the affidavits as to the actual taking of the vessel from the master and crew beyond all doubt constitute a piratical taking. The effect of upholding the plea of these captors might possibly be that, notwithstanding their gross misconduct, the vessel and cargo might be left to them. For, as his honor the administrator of the provincial government had directed the vessel and cargo to be brought into this court for adjudication, he could hardly then have resumed possession for any purpose. Impressed, then, by these strong convictions, as such a condition is dispensed with by the advocate general, I will not myself volunteer to impose (as a condition precedent to the restoration of the property) that their owners shall give bail to answer prospective claims; for, if I am rightly informed, the amount to be required would be at the least eighty thousand dollars, and to insist on such bail might be equivalent to a refusal to restore the property.

Unlading the vessel, and the incident expenses, have rendered their ratable

adjustment a matter of great difficulty; a difficulty, to be sure, which might be overcome by my decreeing a particular appraisal and valuation of the vessel and cargo to be made by the marshal, and a subsequent reference to the registrar and merchants. After a careful consideration, however, of this part of the case, I think it not unjust to order that the costs and expenses (except only the costs of these claimants whose property is to be delivered to them here, which, as well as those of the advocate general appertaining thereto, they are to pay) be paid by the owners of the vessel, leaving to them to adjust and seek repayment thereof from the shippers, insurers, and other persons chargeable therewith. If this were an ordinary case of capture from pirates, the prescribed salvage would have been one-eighth of the value of the property, and this, on the value of the vessel alone (which, I am informed, is more than sixty thousand dollars) would have been seven thousand dollars, and the owners of both vessel and cargo have been fortunate that they were not destroyed at sea, and so wholly lost to them. It is unnecessary to recur to the circumstances of the recapture. It suffices to remark that the taking was not an ordinary piratical capture. It is even possible not to have been a case of piracy at all. This court would stultify itself were it to affect ignorance of what is patent to everybody, namely, that those who wrested the Chesapeake from the master and crew are at the present moment in the adjoining province of New Brunswick, asserting that they made the capture as citizens of and parties duly authorized by the government of the Confederate States, and that they have produced documents and proofs thereof before magistrates there duly invested with the right to determine the validity of their claim, so far at least as affects their alleged piratical character. I allow this claim, and will decree a writ of restitution when moved, to be given to the claimants upon payment of the costs and expenses, as I have before specified.

The registrar will estimate as accurately as he can the amount which will certainly cover the whole costs and expenses, to be paid, as I have directed, by the vessel, and upon that amount being paid into the Bank of British North America, the bank of deposits of this court, he will issue the writ of restitution to the owners of the vessel. And he will, by orders on the said bank, pay to the several parties entitled to receive the same, such sums as he may have taxed and allowed, and the remainder, if any, he shall return to the said owners. In like manner he is to tax, and allow and cause to be paid by the claimants of that part of the cargo which has been, is, or is to be delivered here, all their costs, and the costs of the advocate general appertaining to their claims. The registrar will cause this judgment to be inserted in one of the city newspapers, and he will also cause to be printed in the same manner as the affidavits in this cause are printed, this judgment, and also my remarks thereon of the 13th January, and 10th instant, and attach copies thereof to this judgment, and also copies of the said affidavits. And the registrar will include in his bill the charge for the printing done and to be performed in this cause against the vessel, and pay the same to Alpin Grant, esq., the printer of this court, out of the sum to be deposited as aforesaid in the Bank of British North America.

Court of Vice-Admiralty.

HALIFAX, January 13, 1864.

This court met to-day for the consideration of this case. On taking his seat, the judge directed the registrar to cause the affidavits on which the warrant of arrest was granted, and as the case proceeded, any other material documents, to be printed by the Queen's printer, for the use of the court, and for transmission to England. He also ordered that officer to ascertain if a competent shorthand

writer could be procured, as he should require one on every important hearing; and (remarking that the fees allotted to the judge by the fee-table were, in all cases, of very trifling amount) he desired the registrar neither to receive nor charge any fees for him in this case.

His lordship then said :

"On ordinary occasions it is of little moment what mistakes are made by those who report the proceedings of a court of justice, but in the present it is incumbent on me, so far as I can, to prevent even a temporary misapprehension of the course I shall pursue. I have, therefore, reduced to writing what I endeavored to express on Saturday last, merely observing that I did not then modify any doctrine I stated at the outset of my remarks, nor do I intend to do so now.

"It is not at all extraordinary that gentlemen unacquainted with the law and practice of a court which are in many particulars peculiar to itself, and which during time of peace is very unfrequently called upon, to misapprehend both. But this case not only brings before me (incidentally to be sure, but still calls for) examination and application, the principles of international law, and has besides also excited great interest and attention in the United States of America. I am naturally desirous that what I do or say as a judge in it should be accurately stated by the press. Now, in the first place, I have to remark, that it is in this court open to the judge in any stage of the proceedings, especially where the rights of the crown are or may be involved in it, to indicate to the parties the proper course to be pursued, and upon the facts before him, if they cannot be gainsaid (and those on which I have formed my opinion cannot be gainsaid) to call their attention to the view of the law applicable thereto, which has occurred to him. It is his duty, therefore, sometimes to interfere *ex officio*, as did the most eminent of my predecessors, Sir Alexander Croke, in the case of the *Herkimer*, in which he said : 'It is quite in accordance with the constitution of the court of admiralty for the judge to indicate *ex officio* to the parties any view which may seem to have an important bearing on their rights,' adding, 'such proceedings must necessarily be governed by the discretion of the court.'

"Now the facts set forth in the affidavit on which I granted the warrant are, that the *Chesapeake* and cargo were forcibly taken on the high seas from those who were conducting her from New York, in the United States of America, to her port of destination, Portland, (she being a steamer carrying passengers, and a cargo owned by several shippers, some British and some citizens of the United States,) by a number of persons who had gone on board as passengers at New York. That one of her crew was then slain by them. That those persons brought her into several of the ports of this province, giving her a false name. That they landed and sold a considerable part of her cargo. That they entered and remained in Sambro harbor, within a short distance from this port, and on the approach of a ship-of-war of the United States, left the vessel and fled to the shore, and while there with fire-arms forcibly resisted process issued against them by lawful authorities here, signifying that on any attempt being made to arrest them they would use them; and, finally, that they are all now fugitives from justice. Unexplained, these circumstances certainly constitute a piratical taking, and such as required me to grant a warrant to arrest the vessel and cargo. Vague assertions and rumors to the effect that this taking of life and this capture were the acts of duly authorized belligerents furnish no reply to such a case. Indeed, Mr. Ritchie suggested it as possible, and addressed me as *amicus curiæ* only. With reference to the principles he propounded, they lie on the very surface of international law; and if those persons are really entitled to the character asserted for them, we have a right to expect that they should be prompt to vindicate that character before a British tribunal such as her Majesty's supreme court, on whom they might, I am sure, rely for protection, if the law entitled them to protection.

"Now the jurisdiction of the court of vice-admiralty over cases of piracy is exclusive, for the crown has *jure coronæ* as droits of admiralty the absolute right of goods belonging to pirates, and also to those found in their possession, if not claimed by their owners and proof made of their title. Until such claim is established, they must remain in the custody of this court. At the end of a year, they are, if no claim is preferred, condemned to the crown as droits of admiralty. Moreover, this court is bound to see that salvors are properly rewarded. In the present case no such claim is preferred, or if preferred, it would not be listened to for a moment.

"It is not for me to deal with the gross outrage on the liberty of our fellow-subjects, and the contemptuous and coarse violation of her Majesty's proclamation and her territorial rights, perpetrated by officers of the navy of the United States. We may rest assured that these are safe in the hands of Earl Russell, a statesman who has ever been foremost in vindicating the rights of his countrymen in every part of the world. I do not doubt that his lordship will promptly demand that ample reparation be made by the government of the United States, and I confidently anticipate that that government will as promptly disavow and apologize for the conduct of their officers, and make full reparation to the sufferers. I think, too, we have all reason to be gratified that our gracious sovereign has been so fitly represented in the recent emergency by her representative, General Doyle. With the courtesy natural to him, and the spirit and decision which his high office and duty as a soldier taught him, his prompt measures to obtain the release of our fellow-subjects so ignominiously treated cannot but secure to him the gratitude of every Nova Scotian.

"From the first I thought it probable that the case would come before me, and therefore I, as carefully as I could, considered the principles which, if it should, must govern my proceedings. I knew, indeed, that though his honor the administrator of the government might, as representative of the Queen, possibly direct the vessel and cargo to be delivered at once to their respective owners, yet for him to do this without waiting for the instruction of her Majesty's government, I also knew would be assuming a very grave responsibility. Besides, this case is *prima impressionis*, and in many of its aspects full of difficulties. *Prima facie*, the facts before his honor, and of course submitted to his legal adviser, the advocate general, exhibited an undoubted case of piracy. But it was well to pause before presenting it to this court as such, in order that all the circumstances should be fully ascertained. Moreover, the nature of the cargo shipped by British owners as well as citizens of the United States rendered it extremely difficult for the local government to aid his honor, since they had no authority to administer an oath to the claimants, and no machinery to effectively ascertain their respective rights. What the government could do, they did promptly and well, and by their vigilance and activity much of the goods clandestinely landed from the Chesapeake have been saved for the owners.

"Looking, then, at the circumstances of this case, I (in the exercise of the discretion of which I have already spoken) thought it well, with a view to preventing further delay and saving the heavy expense attendant on this litigation, to suggest at the outset to the parties the course which the incontrovertible facts of the case has led me to adopt, viz: That the owners of the vessel and cargo should conjoin their claims, instead of presenting separate claims, and thereby render unnecessary the unloading the cargo, and enable the vessel at once to resume her original voyage. I had previously directed the marshal not to take the rigging from or otherwise dismantle the vessel, but to wait on his honor the administrator of the government and the authorities at the dock-yard and the provincial government, and ask them to permit the vessel and cargo, and that part of the cargo the possession of which had been obtained by the officers of the provincial government, to remain as at present until some further order should be made therein by this court, and this was immediately conceded. I

granted the decree of unlivery for which the advocate general moved, to be used at his discretion, and directed the respective claimants to confer with each other, and to submit their proofs to him preparatory to their moving for the restoration of their property. On this occasion Mr. Wyld, the proctor of one of them, signified his client's desire that his portion of the property should be delivered here. Appearances on behalf of the vessel and parts of the cargo have been filed (I take it for granted the proctors have filed their proxies, duly authenticated;) but no appearance has been given for the alleged captors.

"In the course of his address, Mr. Ritchie suggested that but for fear of his being delivered upon the demand of the government of the United States, under the extradition treaty, the principal person engaged in the capture would appear openly and make a claim. Captures lawfully made by a belligerent may by subsequent misconduct of the captors, in respect to such captures, so divest themselves of their vested rights as to take from them the aid of the court of admiralty. Now the consideration of such a claim as Mr. Ritchie suggests, though but an incident of the cause over which, in virtue of its constitution and power, it has and exercises original jurisdiction, calls on me to proceed upon the common law of the admiralty, and the enlarged principles of international law which guide this court in contradistinction to those circumscribed technicalities and rules which obtain in other courts. Yet, even in the courts of common law and equity, we have the maxims that 'a man must come into court with clean hands;' 'that he who seeks must do equity,' and the like. A mere reference to the admiralty reports will show that such subsequent misconduct has the effect I have mentioned. More than sixty years ago Sir Alexander Croke decided, not on a statutable provision, but on the common law of the admiralty, in the case of *La Reine des Anges*, that the right of the captor to a prize which had vested in him was by his subsequent conduct in respect to the captured vessel wholly divested, and he condemned her as forfeited to the crown *jure coronæ*.

"Now the course of proceedings in this court in this case, as prescribed under acts of the imperial Parliament, will be this: The proctor general, on behalf of the crown, will file a libel, setting forth therein as piratical acts all the circumstances I have detailed; and if any claim be put in either on behalf of the person to whom Mr. Ritchie referred, or of the Confederate States, assuming that the latter have such a corporate character as to give them a right as a nation to a *locus standi* in this court, (as to which I will say nothing more at present,) and assuming further that the Chesapeake was lawfully captured, then those circumstances must be all admitted by the plea of such a claimant.

"Now by clause 3 of section 12 of our rules, it is prescribed to the judge as his duty 'to reject immediately all pleas which, if assumed to be true, will not justify him in pronouncing a decree for the party pleading such plea,' for in this court both parties are actors. The effect of my decreeing such a plea to be valid would be to deliver the vessel and property to the claimant. But am I, sitting as the judge of a court of admiralty, and representing her Majesty in it, to sustain the plea of men who have violated her proclamation of neutrality, offered an affront to her dignity;—of men who, claiming to be belligerents, and not seeking the privileges which the courtesy of neutral powers extend to belligerent vessels, but who have grossly and wilfully and stealthily violated her territory and sold goods therein;—who have, with revolvers and lawless force, violently resisted on the same territory the officers seeking to execute the process of her magistrates; and who are at this moment fugitives? If, indeed, these people had entered this port claiming the privileges usually accorded to belligerent vessels by neutral states, then the principles referred to might perhaps have been invoked on their behalf before a tribunal authorized to consider them. But this court of vice-admiralty has no such authority, except, as I have said, as incidental to the jurisdiction which it rightly exercises in cases of

piracy. Among the principles I have referred to is that one by which neutral property, not being contraband, found by belligerent captors on board of a prize is restored to the neutral owners. But unless the view of the course I propose to pursue be correct, I have no authority to decree a delivery of that claimed in this case by British owners, still less, if possible, to order the vessel to be restored to her owners.

"I trust that a judicial career of now nearly eighteen years has enabled the bar to believe that I am capable of altering my opinion, when counsel shows that it is erroneous. I confess, as at present advised, I should feel it my duty to reject such a plea; and had the facts been capable of being controverted or materially modified on which my opinion is founded, I should have studiously refrained from expressing it at this early stage of the cause. But the rights of British owners are concerned, large expenses are being daily incurred, and I am desirous, as I have said, to diminish them, and to expedite those proceedings. The conduct pursued by the persons who seized the *Chesapeake*, after the seizure—though it were a lawful seizure—has, I think, by international law, rendered their prize subject to forfeiture to her Majesty to be dealt with as to her may seem fit."

At the close of his proceedings his lordship informed the advocate general that, under the facts before him, unless they were altered by evidence, he would treat it as a case of piracy throughout.

Court of Vice-Admiralty.

HALIFAX, *February 10, 1864.*

On taking his seat upon the bench, his lordship stated that the appointment of a printer and of a shorthand reporter to the court having been recently authorized, he had appointed Mr. A. Grant to the first-named office, and Mr. John J. Bourinot to the latter; whereupon the registrar of the court presented to the respective parties the commissions which his lordship had been pleased to grant.

On granting the motions for writs of restitution of such parts of the cargo of the *Chesapeake* as were claimed, and their claims allowed on Friday, the 5th of February, his lordship remarked:

"What I have said and done in this case has been greatly misunderstood and misrepresented, and it is of much importance that this should, as far as possible, be prevented from again occurring. I have, therefore, thought it well to reduce to writing what I have to say in decreeing these writs as prayed. It has been thought, for example, that my proceedings will be in effect deciding in favor of the demands made by the government of the United States upon the governments of this and the adjoining province of New Brunswick for the delivery, under the extradition treaty, of the captors of the *Chesapeake* as pirates. But with questions or rights under that treaty this court has no concern: no authority to interfere directly or indirectly. And the view I have taken of the case before me can and could in nowise affect that demand, even if it were invested with full authority to adjudicate upon it. I grant these writs, and I am prepared to decree the same writs in order to the restoration of the vessel and the remainder of the cargo to their original owners, upon due proof of their title to them, and payment of the costs and expenses which have been incurred. Those which have now been preferred I will examine and pronounce thereon on Saturday next. It will be recollected that, at the commencement of these proceedings I stated that, in my view, assuming the captors of this vessel to be lawfully authorized belligerents, they had forfeited their rights; that I could

not, therefore, entertain a plea on their behalf, and that the proper course to be pursued was to restore the vessel and cargo to their original owners. Subsequent research and reflection, and circumstances which have since occurred have confirmed this view, and also enabled me to state, that in my early announcement of it I rightly exercised the discretion which is constitutionally reposed in a judge of a court of admiralty. Still, if these opinions be erroneous they can be readily corrected. This court (though it administers its functions in Halifax) is an imperial tribunal, acting by the authority of acts of the imperial Parliament, and guided by international and maritime as well as municipal law; and from its decrees an appeal lies to the highest appellate tribunal but one in the empire. If, therefore, these captors have the rights which it has been suggested at the bar belongs to them, the confederate government and its agents can have no difficulty in effectively vindicating them. The announcement of those views was received with but scant deference. They, especially the intimation that the Chesapeake and her cargo should be forthwith restored to their owners, were promptly denounced as inconsistent with that common sense, the application of which, it was said, to legal problems, was all that was required for their solution. This reception of them troubled me but little, as I felt that no personal disrespect could be intended; but the conduct of a portion of the press in these colonies has given me great concern. Free and fearless criticism of the proceedings of courts of justice, such (and such only) as one sees in the great leading organs of public opinion in England, is an essential corrective of these proceedings. But the circumstances of this case, it is well known, have excited the most angry feelings throughout the United States, and the epithets and strictures, and the unworthy motives and conduct imputed to this court, and to myself as judge of it, are as unpatriotic as they are un-English, for they can have no other tendency than to exasperate these feelings, and justify alike the confederates and the federals in treating with contempt any decree which it may pronounce."

Motions were then made by the several counsel in reference to the vessel and cargo, after which his lordship stated that on Monday next he would give judgment, which would be in the nature of a final decree in the case. The court then adjourned till Monday next at 11 o'clock.

PROVINCE OF NOVA SCOTIA.

In the Vice-Admiralty Court of Halifax:

Appeared personally James William Johnston, of Halifax, in the said province, barrister-at-law, advocate and procurator general, and being duly sworn to depose the truth, did make oath and say:

That a steamship called the Chesapeake was lately brought into the harbor of Halifax, and surrendered to the provincial authorities by A. G. Clary, esq., as commander in the United States navy, in command of the United States war steamer *Dacotah*, who represented that the said steamer Chesapeake had been taken possession of in the harbor of Sambro, in this province, by the United States gunboat *Ella* and *Annie*.

That application was made by the acting United States consul to his honor the administrator of the government for a warrant under the extradition treaty between Great Britain and the United States, and the act of Parliament made for giving effect to the treaty to authorize proceedings for the extradition of certain persons charged with an act of piracy in seizing the said steamer Chesapeake on the high seas, and the killing of a man belonging to her; and afterwards a warrant was issued by the mayor of the city of Halifax for the arrest of those three persons or some of them, on certain affidavits, of which copies

marked A, B, C, are hereto annexed, as appears by reference to the proceedings in that behalf had before the mayor. That the signature and addition to the jurat of the said three affidavits, "P. C. Hill, mayor and J. P.," are of the proper handwriting of Philip Carteret Hill, the mayor of the said city, and justice of the peace within the same, with which this deponent is well acquainted.

That the said affidavits were made and the last-mentioned warrant issued thereon, on a charge alleged of piracy and murder on board the said steamer on the high seas, and her capture from the possession of the master under whose control she was sailing, for the purpose of procuring the arrest of the parties accused under the said treaty and act of Parliament, with a view to their extradition. And the said affidavits, being the foundation for the said warrant, cannot be procured to annex hereto, but remain with the said mayor in the proceedings had or which may be had before him thereon, and the deponent saith that he has carefully collated and compared the paper writings hereto annexed, marked A, B, and C, with the said original affidavits, and that the said paper writings respectively are true and correct copies of the said original affidavits.

And further, the deponent saith, that from reports received from and investigations made by officers of the revenue, under the authority and direction of the provincial government, it has been ascertained that the said steamer Chesapeake, after her capture, was brought to Nova Scotia by her captors, and was taken into the ports of Shelburne and La Have, where quantities of her cargo laden at New York were landed, a portion at La Have, under permit of a custom-house officer, acting without due consideration or authority, and the remainder secretly, and without the pretence of authority, and in violation of the revenue laws of this province. That of the former, property of considerable value has been arrested in Halifax, and is now in charge of the provincial government. The two officers of the provincial customs were sent from Halifax to discover and secure as much of the cargo of the Chesapeake as possible, by whom a small portion was recovered, which is also under the charge of the provincial authorities. That a considerable portion of the cargo, it is understood, remains on board.

And the deponent saith that the said steamship Chesapeake, and portions of her cargo, are now held by the provincial authorities, subject to all such rights and responsibilities as legally attach thereto, and to such judicial decision thereon as may be lawfully made in the premises.

J. W. JOHNSTON.

Sworn before me this sixth day of January, A. D. 1864,

JAMES R. SMITH,
Registrar of the Vice-Admiralty Court at Halifax.

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A.

HALIFAX.

The deposition of James Johnston :

I was chief engineer on board the steamship Chesapeake, bound from New York to Portland. There were twenty passengers on board. At half past one o'clock on the morning of the 7th-December, being off Cape Cod, had just gone off watch, I was waked up by report of pistols and some person screaming; I went on deck, found the first assistant engineer dead. I raised him up and asked what was the matter; got no reply and went below, where I was shot in the chin by a passenger named Brooks; I heard Brooks tell a man when we were in La Have river that he had fired five or six shots and had killed the first assistant engineer. After I had got the shot in the chin I went across the engine-room and found the mate there; I asked him what was going on; he told me that he

was shot in two places; I saw the wounds afterwards. Mr. Braine, commonly called J. C. Braine, Lieutenant Parr, David Collins, — Brooks, Isaac Tredwell, two brothers by the name of Moore, two brothers by the name of Cox, — Kenny, George Wade, George Sayers, — Seeley, William Harris, took charge of the ship and put the captain in irons, and told us we were all prisoners to the confederate flag, and hoisted the confederate flag in Shelburne. They compelled me to stay with them, being the engineer. Part of the cargo was sold in different ports on the shore. Never saw any commission to Braine, or uniform on any of the men. The persons above named wore pistols, and guarded me while on my watch; they all were concerned in the capture of the ship.

JAMES JOHNSTON.

Sworn to, at Halifax, this 18th day of December, A. D., 1863, before me,

P. C. HILL,

Mayor and Justice of the Peace.

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B.

And this deponent, George G. Ames, being duly sworn, saith: I belong to Maine. I was cabin-boy on board the steamer Chesapeake. She started from New York for Portland at 3 o'clock on Saturday afternoon. On the following Monday, about half past 1 o'clock, I was sleeping in the back part of the ship on a lounge with the cook, and was awoke by a scuffling on deck. I asked the cook what the trouble was; he said they were taking in sail; next I heard the report of pistols on deck, and groans. I rushed to the companion, and was told to surrender to the southern confederacy, by the men who guarded it. I then went back behind the companion-way; the guard told me if I would be peaceful I should be landed with the passengers and crew, and treated well. Soon after, Lieutenant Parr came down; I asked him what the matter was; he said we were prisoners to the Confederate States. I asked him who was killed; he told me the second engineer was dead and overboard. None of the persons were in uniform. We ran down to Grand Manan, remained there about four hours. Braine ordered the boat down, and went ashore; came on board shortly after and ordered the ship under way about 5 o'clock in the afternoon. About ten miles from St. John we were put on board the pilot-boat and taken to St. John. I could identify the whole of them, but did not know their names; they compelled three firemen and two engineers to remain on board when the rest of the passengers and crew were put on board the pilot-boat.

GEORGE G. AMES.

Sworn to, at Halifax, this 18th day of December, A. D. 1863, before me,

P. C. HILL,

Mayor and Justice of the Peace.

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C.

And this deponent, Mary V. Burgoyne, of Jersey City, in the State of New Jersey, on her oath saith as follows: I was stewardess on board the steamer Chesapeake. There were twenty passengers on board, all men. On Monday morning, December 7, at half past 1 o'clock, I heard some person come into the cabin. I looked out, saw the mate, Charles Johnston, going into the pantry; while he was there I heard the noise of a pistol in the engine-room; saw the state-room from the pantry to the engine-room. I shut my door, and afterwards

heard a great number of pistol shots; some one knocked at my door; it was the cook; he asked me if I was frightened; I said no; I asked if all hands were killed; he said no, but that we were prisoners to the confederates, and while we behaved well nothing would happen to us. About 2 o'clock Captain Willett, the master of the Chesapeake, came to my room and knocked; he was in irons; he told me not to be frightened; that he had begged them to let me be; the chief engineer came next and told me the same thing; Parr, one of the leaders of the rebels, came with him, and also told me so, that he would land us at the first place he came to. Next day at 5 o'clock we were sent on shore in a pilot-boat to St. John, except the chief and third engineers, and three firemen, who were kept on board. Four of the passengers were put on board the pilot-boat, and the remainder, sixteen, stayed on board the Chesapeake; their names were Henry C. Braine, otherwise J. C. Braine, Henry A. Parr, George Brooks, George Sayers, otherwise George Robinson, George Moore, Robert Carr, Robert Cox, Gilbert Cox, James Kinney, James Wilson, otherwise George Wade, Robert Moore, ——— Collins, ——— Seely, William Harris, and ——— Osburne, who piloted the ship from Cape Cod to Grand Manan. These were the sixteen that remained on board when we left; they were all concerned in the capture of the steamer; none of them wore uniforms, and I saw no flag at any time; they were all armed; three of a guard in the cabin at night, and one in daytime.

MARY V. BURGOYNE.

Sworn to, at Halifax, this 18th day of December, A. D. 1863, before me,
P. C. HILL,
Mayor and Justice of the Peace.

PROVINCE OF NOVA SCOTIA.

In the Vice-Admiralty Court of Halifax:

Appeared personally William Henry, of Halifax, in the county of Halifax and province of Nova Scotia, engineer, and Alexander Henry, of Halifax, in the said county and province, engineer, and each of them being duly sworn to depose the truth, did each for himself severally make oath and say: That they are brothers, natives of that part of Great Britain called Scotland, and natural-born subjects of the kingdom of Great Britain, and each for himself says that he has never been naturalized in or come under the allegiance of the United States of America, or any other foreign kingdom. That they left Scotland together about eleven years ago, and went to the United States, but they have been principally in the British North American provinces, where they have worked at their business of engineers, on shore or on board of steamers, and have lately resided at Halifax, in Nova Scotia. That on Wednesday, the 16th day of December last, they were requested by a person with whom they were unacquainted, to engage on board a steamer represented to be then in Sambro harbor, about sixteen miles from Halifax, as engineers, and being out of employment, these deponents entertained the proposal so far as to settle on the amount of their wages, and agree to visit and inspect the vessel, upon the understanding that if satisfied with her they would enter into written articles there, and if not satisfied would return to Halifax. That upon this understanding, these deponents left Halifax on board the schooner Investigator, laden with coals for the said steamer, about 11 o'clock on that Wednesday night, and reached Sambro about half past 3 o'clock on the next morning, being Thursday, the 17th day of December last, when the schooner went alongside a steamer which was lying at anchor a little inside of the mouth of Mud creek, within Sambro harbor, and within the county of Halifax, in the province of Nova Scotia. That these deponents understood the said steamer to be the vessel called the Chesapeake,

that had been captured a short time before off the American coast. That a person was on board who was called the captain, and appeared to be in charge of the steamer, and to have command of his crew, and these deponents heard him give instructions for putting the coal from the schooner into the steamer. That the deponents soon after turned into berths in a state-room in the steamer's cabin, and went to sleep; and the deponent, William Henry says, that between 7 and 8 o'clock next morning, on the same 17th day of December, he was aroused by a person calling and saying that a gunboat was approaching, whereon the said deponent William Henry went on deck, and perceived a steamer about three miles off, and within Sambro Light-house island, approaching in a direct course towards the Chesapeake; that the said deponent found great confusion to prevail on the deck of the Chesapeake, where the men were employed in clearing a boat and other preparations for leaving the vessel, with several shore boats alongside. The captain in command of the Chesapeake was on deck, and ordered the said deponent on his coming up to get up steam, who, in obedience to that command, went below into the fire-room, and then shut the furnace doors, the fires being on, but damped, and after being below about five minutes the said deponent came on deck, when he observed the approaching steamer coming up the harbor, still steering toward and then within about two miles from the Chesapeake. That on coming on deck on this second occasion, the said deponent found that the captain and all the crew had left the Chesapeake, and were then in boats proceeding toward the shore, where they all landed and disappeared, and the schooner Investigator had hauled off and come to an anchor about 400 or 500 yards from the Chesapeake. That the steamer Chesapeake all this time was at anchor about 200 or 300 yards from the shore, with a small cove ahead, further into which the schooner Investigator moved and anchored, as aforesaid; the schooner, when so at anchor, being about 300 or 400 yards from the shore. That after the said deponent came on deck this second time, and after the captain and crew of the Chesapeake had left her, several persons remained on board, who represented themselves to have belonged to the crew of the Chesapeake before and at her capture, one of whom, when the gunboat had neared the Chesapeake to within a short distance, and was still approaching her, and when the captain and crew had left the vessel and made their escape as aforesaid, hoisted the United States flag, the union down, and after it had floated for two or three minutes in that manner hauled it down and rehoisted it with the union up. That the approaching steamer, which proved to be the United States gunboat Ella and Annie, came alongside the Chesapeake, and a number of armed men came from the gunboat on board the Chesapeake, and took possession of her. And this deponent, the said Alexander Henry, says that while he was still in his berth an officer with a drawn sword came into the cabin where he lay, and ordered the deponent to rise and come on deck, which he did. And these deponents say, that while on the deck of the Chesapeake, being questioned by a person they understood to be the captain of the Ella and Annie, they informed him they were British subjects, resident in Halifax, and had only come on board the Chesapeake early that morning for the purpose of engaging as engineers, should they approve the condition of the vessel and her machinery; and the engineer who had belonged to the Chesapeake before her capture informed the said captain of the Ella and Annie that these deponents had only come on board that morning, and were not connected with those who had been concerned in the capture of the Chesapeake. Nevertheless, these deponents were ordered by an officer of the said gunboat to go on board of her, which they were compelled to do, and where they were immediately heavily ironed, both on the wrists and ankles; and soon afterwards a man was put with them, and also placed in irons, who they understood from persons on board the gunboat had been taken from on board the schooner Investigator, in the said harbor.

That while the said two steamers lay together in Mud creek, as aforesaid,

coals were shipped from on board the gunboat into the Chesapeake; and in three or four hours after the gunboat had taken possession of the Chesapeake the two steamers were got under way, and these deponents were informed by some of the crew of the gunboat that they were bound for Boston, and at a later period that the course had been changed for Halifax, by order of another United States man-of-war they had fallen in with. That these deponents, together with the said other prisoner, who they understood was called Wade, were kept on board the said gunboat Ella and Annie in close confinement, and heavily ironed on the arms and legs, for over fifty hours; and on Saturday, the 19th day of December last, they and the said Wade, all being handcuffed, were brought up and put into a boat under charge of an officer and part of the crew of the Ella and Annie, and were taken to the Queen's wharf, at Halifax, where by the said officer they were delivered to the sheriff of the county of Halifax, by whose direction the said officer caused their handcuffs to be taken off, and the sheriff thereupon declared them to be free. And these deponents say that their clothing, contained in a large trunk and canvas bag, was on board the schooner Investigator when the Chesapeake was taken possession of by the gunboat. That they were informed by the said Wade that a number of trunks and other property had been taken by the men of the gunboat from the schooner, and brought on board the gunboat, among which, from the description he gave, were the clothes of these deponents. That these deponents applied to Mr. Gunnison, the United States acting vice-consul for the restitution of their clothes, on Saturday, the 19th day of December last, who, in the presence of their counsel, John W. Ritchie, esq., promised they should be delivered to them, and stated that the Ella and Annie would not leave Halifax before Monday. That the said vessel left on the Saturday night, and on Monday, on applying to Mr. Gunnison for their clothes, he denied that he had promised to get them, and the deponents have lost their said clothes, to the value of one hundred dollars.

WILLIAM HENRY.

ALEXANDER HENRY, his + mark.

Sworn before me (the same having been read over to the deponent) this fourth day of January, A. D. 1864,

JAMES R. SMITH,

Registrar, Vice-Admiralty Court at Halifax.

PROVINCE OF NOVA SCOTIA,

In the Vice-Admiralty Court of Halifax.

Appeared personally John E. Holt, of Halifax, in the province of Nova Scotia, master mariner, and being duly sworn to depose the truth, did make oath and say that he is a native of the province of Nova Scotia, and a natural born subject of Great Britain, and has never been naturalized or acknowledged allegiance to any other state. And he says that, being the owner and master of the schooner Investigator, of twenty-five tons burden, he was engaged to take a load of coal to a steamer lying at Sambro; and on Wednesday, the 16th day of December last, at about eleven o'clock, he left Halifax in the said schooner with a load of coal, and reached Sambro at three o'clock on Thursday morning. That a steamer was then lying in the mouth or entrance of Mud cove, a harbor inside of Sambro headlands, and about two or three hundred yards from the shore, and in a situation where she was conspicuous to vessels passing into or out of the harbor of Halifax.

That the deponent placed his schooner alongside of the steamer, and com-

menced transhipping the coal, as he had been directed to do at Halifax, being assisted by the crew of the steamer. That about seven o'clock on the morning of the last-mentioned day, the deponent saw a steamer off Sambro steering westwardly, but which as soon as she had opened the harbor bore up north, and stood right in and toward the first-mentioned steamer and the deponent's schooner. That the crew of the steamer alongside of which the deponent's vessel was lying, and which the deponent understood to be the Chesapeake, when it became apparent that the steamer outside was bearing toward them, made their escape to the shore, having put a number of chests, a quantity of loose clothing, and other articles on board the schooner, and the deponent hauled his schooner off, and proceeded about four hundred yards further into the harbor and came to anchor. That there remained on board the Chesapeake several men whom deponent understood had belonged to her original crew before her capture off the American coast, of which deponent had heard. That after the deponent had hauled off from the Chesapeake about a quarter of an hour one of the men on board hoisted the United States flag upside down, the approaching steamer being about four hundred yards distant from the Chesapeake, and bearing towards her; in a few minutes the flag on board the Chesapeake was hauled down and hoisted with the Union up, by which time the approaching steamer, which proved to be the United States gunboat Ella and Annie, was close to the Chesapeake, and which vessel she immediately afterwards boarded.

That about an hour afterwards a boat with seven armed men came on board the deponent's schooner. That the officer in command having ordered his men to open the hatches, the deponent demanded his authority, when the officer placed his hand upon his pistol and said, "This is my authority," and, at the same time, three of the men presented their pistols at the deponent. That some of the boarding party remained on deck with pistols in their hands, while others went below; they ransacked the schooner throughout, and took away a large number of trunks, bags, and loose clothes, and any articles they could find that they supposed belonged to the men who had been on board the Chesapeake, including the chest and bag of two men named Henry, who had gone down in the schooner from Halifax. That they also made prisoner of and carried away a man, whose name deponent afterwards understood was Wade, who came on board the schooner from the Chesapeake when the gunboat was approaching. That this deponent remonstrated with the officer in command of the boat's crew against the outrages committed on board his vessel, who replied that deponent had better be quiet or he would make a prisoner of him and take him to Boston, where he, deponent, would make a good witness.

JOHN E. HOLT.

Sworn before me, this fourth day of January, A. D. 1864,

JAMES R. SMITH,
Registrar, Vice-Admiralty Court at Halifax.

PROVINCE OF NOVA SCOTIA,
In the Vice-Admiralty Court of Halifax.

HALIFAX, ss :

Appeared personally Patrick Conners, of New York, in the United States of America, fireman, and being duly sworn to depose the truth, did make oath and say: That in the afternoon of Saturday, the 5th day of December last, he sailed in the capacity of fireman on board the steamship Chesapeake, from New York, bound to Portland, in the State of Maine, in the United States, with passengers and freight on board. That the said steamer had been and was

then employed as a regular packet, for the conveyance of freight and passengers between New York and Portland. That while on the said voyage, and off Cape Cod, at about two o'clock in the morning of Monday, the 7th day of December last, this deponent being on duty in the fire-room, four men armed with pistols rushed into the fire-room and seized the deponent, and put him in irons, having first fired a pistol close to him. That the second engineer, named Shaffer, having come into the fire-room, and inquired the cause of the disturbance, one of the men fired a pistol at or near him, upon which the said Shaffer raised his hands to his face and ran out of the fire-room calling for the captain. That this deponent remained in the fire-room in irons for about one hour and a half, during which time three of the four said armed men continued to move between the fire-room and engine-room. That the fires having got low, the deponent was released from irons and ordered by the said party to attend to the fires, and one of them stood over him with a pistol to see that he did so, and from that time until the Chesapeake was brought from Sambro to Halifax, he, the deponent, two other firemen, the assistant engineer and the chief engineer, belonging to the said vessel when she left New York were compelled to attend to the fires and engines under a guard of armed men. That from the time when the party of armed men seized the deponent and put him in irons in the fire-room, as before mentioned, the said vessel continued under the control and direction of the said party, and those who acted with them from that time, until taken possession of at Sambro by the United States gunboat Ella and Annie, on Thursday, the 17th day of December last.

That after the capture of the Chesapeake, as before mentioned, a number of passengers who had left New York in her, her captain and all her crew, except the five persons above mentioned, were sent on shore at New Brunswick. That the deponent and the rest of the said five persons were desirous and demanded to leave the Chesapeake at the same time, but were forcibly detained on board by the persons in whose charge she then was, and that a person came on board about that time who assumed the command of the vessel, and of the party by whom she had been captured. That the said steamer Chesapeake was afterwards taken into Shelburne in Nova Scotia, where she remained over the night, and during that night a quantity of goods, part of her cargo from New York, were taken out of the vessel and carried on shore, as this deponent is fully assured from the movements he heard on board the vessel, and the conversation of the crew. That from Shelburne the steamer was taken into La Have, where she remained over two nights, and where also was taken out of her and carried on shore a quantity of her cargo, as this deponent is perfectly assured, by the means aforesaid. That part of these goods were taken out while the vessel lay up the river of La Have, nearly abreast of a large church, and she afterwards dropped down the river and lay all night at or near the mouth of the river, and during that night a vessel came alongside, into which goods from the Chesapeake were put, and a vessel had also been alongside of her for the same purpose at Shelburne.

That while at Sambro, the deponent was informed by the chief engineer that he and the four other men, including this deponent, who had belonged to the Chesapeake when she left New York, were to be put on shore at Sambro, in consequence of two engineers having been engaged at Halifax, and two firemen, and in consequence this deponent and his said comrades prepared their chests for leaving the vessel; but before the arrangement could be carried into effect, the United States gunboat Ella and Annie came in sight, and when it was seen that she was bearing down towards the Chesapeake, the crew of that vessel made their escape on shore, leaving on board the five men of her original crew, and two engineers who had come from Halifax. That after the officers and crew who had command and charge of the Chesapeake had left the vessel, and while the gunboat was rapidly approaching the Chesapeake, the chief

engineer hoisted the United States flag with the union down, and when she had got nearly alongside, rehoisted it with the union up.

That the Ella and Annie put a crew and pilot on board the Chesapeake, and the two vessels got under way and left Sambro together, on the said 17th day of December. That the deponent was aware that the Ella and Annie, some time after she had been under way from Sambro, was spoken by another vessel, which he learnt to be the United States man-of-war Dacotah, but what passed he could not hear, and cannot say. And the deponent saith that when the said steamer Chesapeake was under way leaving Shelburne, the deponent, while passing from the fore-castle to the fire-room, saw the confederate flag flying at the main peak.

PATRICK CONNERS.

Sworn before me, this 6th day of January, A. D. 1864,

JAMES R. SMITH,

Registrar, Vice-Admiralty Court of Halifax.

No. 27.

The Duke of Newcastle to Major General Doyle.

DOWNING STREET, March 12, 1864.

SIR: I have the honor to acknowledge the receipt of your despatch of the 18th of February, transmitting papers by which it appears that the judge of the vice-admiralty court at Halifax has decreed the restoration of the Chesapeake and her cargo to the owners.

The affair being thus brought to a conclusion, I am happy to take the opportunity of conveying to you an entire approval of your proceedings throughout this difficult case. Your conduct is considered by her Majesty's government to have been altogether becoming and proper, and to have adequately vindicated the honor and dignity of her Majesty's crown, without neglecting anything which was due to the government of the United States.

I have, &c.,

NEWCASTLE.

No. 28.

The Duke of Newcastle to Lieutenant Governor Gordon

DOWNING STREET, March 12, 1864.

SIR: I have the honor to inform you that, by papers which have reached me from Major General Doyle, it appears that the judge of the vice-admiralty court at Halifax has decreed the restoration of the Chesapeake and her cargo to the owners.

I am happy to take this opportunity of acquainting you that the whole of the proceedings which you had occasion to adopt in connexion with this difficult case have met with the entire approval of her Majesty's government.

I have, &c.,

NEWCASTLE.

No. 29.

*Earl Russell to Lord Lyons.*FOREIGN OFFICE, *March 11, 1864.*

MY LORD: I have received and considered, in communication with the law officers of the crown, the further correspondence respecting the case of the Chesapeake enclosed in your despatch of the 1st of February.

The observations which you make in that despatch on the tenor of Mr. Seward's note of the 18th of January, which forms one of its enclosures, appear to her Majesty's government to be well founded; but as the case would seem to be disposed of by the judgment of the colonial court, directing that the Chesapeake and her cargo should be restored to the owners, there is less necessity for dwelling on the erroneous views which Mr. Seward puts forward in his note.

Mr. Seward can hardly be ignorant that, so far as the extradition of the men, whom he assumes to have been pirates, is concerned, it would have been improper, and was in fact impossible, for the government of Nova Scotia to proceed otherwise than in the course pointed out by law; neither can Mr. Seward seriously intend to suggest that the provincial government, charged with the duty of vindicating her Majesty's territorial rights, when those rights had been invaded in a manner for which the government of the United States have found it necessary to apologize, could have adopted or ratified the unauthorized exercise of power over the persons found on board the Chesapeake by which the invasion of her Majesty's rights was accompanied and aggravated.

I am, &c.,

RUSSELL.

No. 30

*Lord Lyons to Earl Russell.—(Received March 5.)*WASHINGTON, *February 29, 1864.*

MY LORD: I have the honor to transmit to your lordship a copy of a despatch addressed by Mr. Seward to the United States consul at Halifax, in which it is stated that this government, while it adheres to the opinion that the delivery of the Chesapeake ought to have been made at once by executive authority, is nevertheless gratified with the just and friendly proceedings of the officer administering the government of Nova Scotia, and appreciates the enlightened and impartial spirit by which the vice-admiralty court has been guided in the case.

Mr. Seward gave me a copy of this despatch the day before yesterday, and authorized me to communicate it to your lordship and to Major General Doyle. I send a copy of it to the major general to-day.

I have also the honor to transmit to your lordship a copy of a note in which, in obedience to the instructions contained in your lordship's despatch of the 3d instant, I have informed Mr. Seward that her Majesty's government accept the apology of the United States for the violation of her Majesty's territory committed by the United States officers in pursuit of the Chesapeake.

I have, &c.,

LYONS.

[Enclosure 1 in No. 30.]

*Mr. Seward to Mr. Jackson.*WASHINGTON, *February 24, 1864.*

SIR: Your despatch of February 17 has been received. I learn from it that the court of vice-admiralty has decreed that the Chesapeake and her cargo shall be delivered to her owner, on the condition of their payment of costs.

Under the President's directions I shall make this proceeding the subject of a communication to her Majesty's government. In the mean time I think it not improper to inform you that this government, while it adheres to the opinion that the delivery of the Chesapeake ought to have been made promptly and unconditionally by executive authority, is nevertheless gratified with the just and friendly proceedings of his excellency the governor of Nova Scotia in the premises, and appreciates the enlightened and impartial spirit by which the vice-admiralty court has been guided in a case attended with some embarrassment and much local excitement.

The Secretary of the Navy will be informed of your views in regard to the necessity for a convoy of the Chesapeake.

I am, &c.

WILLIAM H. SEWARD.

[Enclosure 2 in No. 30.]

*Lord Lyons to Mr. Seward.*WASHINGTON, *February 29, 1864.*

SIR: Her Majesty's government have had under their consideration the notes which you did me the honor to address to me on the 18th of December last, and on the 9th of last month, respecting the case of the Chesapeake.

The readiness on the part of the government of the United States to make all proper and suitable reparations for the acts of its officers which was manifested by the first of these notes, has rendered it unnecessary for her Majesty's government to insist upon the question which it would otherwise have been their duty to discuss at once with the government of the United States, namely, the willful and flagrant violation of her Majesty's territory by the officers of the United States cruiser *Ella Annie*.

The government of the United States having subsequently made by the second note a full apology for the violation of her Majesty's territory, it only remains for me to state to you that her Majesty's government accept that apology in the same spirit in which it has been offered, and are truly glad that the matter has been settled in a manner honorable to both parties, and calculated to improve the friendly relations which her Majesty's government are always anxious to maintain with the government of the United States.

I have, &c.,

LYONS.

No. 31.

*Lord Lyons to Earl Russell.—(Received March 17.)*WASHINGTON, *March 4, 1864.*

MY LORD: With reference to my despatch of the 29th ultimo, I have the honor to inclose a copy of a note from Mr. Seward acknowledging with satisfac-

tion the receipt of the note dated the 29th ultimo, in which I informed him that her Majesty's government accepted the apology offered by the government of the United States for the violation of British territory committed by its officers in the case of the Chesapeake.

I have, &c.,

LYONS.

[Enclosure in No. 31.]

Mr. Seward to Lord Lyons.

DEPARTMENT OF STATE,
Washington, March 2, 1864.

MY LORD: I have the honor to acknowledge with satisfaction the receipt of your note of the 29th ultimo, in which, referring to my notes to you of the 18th of December last and of the 9th of January of this year, respecting the case of the Chesapeake, you inform me that her Majesty's government, in view of the readiness evinced by the government of the United States to make all proper and suitable reparation for the acts of its officers and of the apology made for the violation of her Majesty's territory, accept that apology in the same spirit in which it has been offered.

I have, &c.,

WILLIAM H. SEWARD.

Mr. Seward to Mr. Adams.

No. 892.]

DEPARTMENT OF STATE,
Washington, April 4, 1864.

SIR: Your attention is invited to the accompanying extract from a despatch of the 16th ultimo, No. 244, from Mr. Dudley, the consul of the United States at Liverpool, respecting the small steamer *Alexandra*, recently launched by the Messrs. Laird & Brothers at Birkenhead.

I will thank you to give proper notice to her Majesty's government in regard to this vessel, and to support your representation by such corroborative evidence of her character as you may be able to obtain.

I am, sir, your obedient servant,

WILLIAM H. SEWARD

C. F. ADAMS, Esq., &c., &c., &c.

[Extract.]

Mr. Dudley to Mr. Seward.

No. 244.]

UNITED STATES CONSULATE,
Liverpool, March 16, 1864.

SIR: * * * * * I have called your attention to a small steamer recently launched from the yard of Laird & Brothers, at Birkenhead, called the *Alexandra*. She is being built very strong, and supplied with powerful engines. I am much bothered about this vessel. All that I can learn is that she belongs to Fraser, Trenholm & Co. She has no carrying capacity, and is built strong enough, and has power enough, for a gunboat. She has two port-holes on each side, but what seems to militate against the supposition that she

is for war purposes is her smallness, and the fact that she has paddle-wheels instead of a screw. None of the men who work on her, or any one about the yard, seems to have any knowledge about her or the purpose for which she is intended. I think she has been built for a privateer, but up to the present moment have not a particle of evidence or any information that proves her to be for that purpose.

Lieutenant Low, who commanded the Tuscaloosa, formerly the bark Conrad, that was detained by the British government at Cape Town—the same who was on the steamer Alabama—is now here in Liverpool with some of his men and officers. I have not much doubt but what he intends to fit out some vessel here in England as a privateer.

I am, sir, your obedient servant,

THOMAS H. DUDLEY.

Mr. Seward to Mr. Adams.

No. 893.]

DEPARTMENT OF STATE,
Washington, April 4, 1864.

SIR: Your despatch of March 18, No. 620, has been received. While this government finds no just cause for objection to the proceedings against the persons who attempted to enlist on board the Kearsarge at Cork, in violation of the wishes and the policy of the United States, it is entitled to claim that the pending prosecutions against British subjects who are engaged in forming naval expeditions against our country from British ports shall be conducted with energy and decision.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

C. F. ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 894.]

DEPARTMENT OF STATE,
Washington, April 4, 1864.

SIR: I have received your despatch of March 18, No. 622, and have placed before the President the proceedings of the meeting of the citizens of Rochdale. They were received by him with feelings of grateful satisfaction.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

C. F. ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 896.]

DEPARTMENT OF STATE,
Washington, April 4, 1864.

SIR: Your despatch of March 18, No. 625, has been received. The delay, perhaps I may call it the hesitation, which the magistrate exhibits in the case of the pirates of the Joseph L. Gerrity, is regarded by the President with surprise and anxiety. You will have learned before the arrival of this despatch that certain arrested offenders, who were engaged in the piracy committed on board the Chesapeake, have been set free by the judicial authorities of the colony of

New Brunswick. That subject has been carefully considered here, and it will be my duty to direct a remonstrance concerning it to her Majesty's government. It is to be earnestly hoped that the action of the home judiciary of the United Kingdom may not be found as objectionable and injurious as that of the province of New Brunswick.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

C. F. ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 898.]

DEPARTMENT OF STATE,
Washington, April 5, 1864.

SIR: I transmit herewith a copy of a despatch of the 5th of February last, No. 6, from the United States consul at Mauritius, respecting the case of the American ship *Sea Bride*. If the view taken by the governor of his instructions in regard to the treatment of uncondemned captured cargoes, or parts thereof, is correct, you are expected to point out the defectiveness of these instructions, and ask to have them so far corrected as may be just and necessary.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

No. 6.

Mr. Mellen to Mr. Seward.

CONSULATE OF THE UNITED STATES OF AMERICA,
Mauritius, February 5, 1864.

SIR: In my despatches No. 15 and 17, of 1863, I informed you of the efforts then making by the confederates and their agents hereabouts to dispose of the American merchant ship *Sea Bride* and her cargo, captured by the *Alabama* in or off Table bay. I also informed you of the steps I had taken to prevent the improper sale of the said ship and cargo, and to reclaim them for their lawful owners, should either or both of them reach this port. Having, towards the latter part of last month, gathered what information I could, and all that it was likely I should be able to obtain before action was necessary, I addressed the honorable colonial secretary a letter, of which enclosure No. 1 is a copy. A copy of his reply you have in enclosure No. 2, to which I rejoined in a communication of which enclosure No. 3 is a copy.

What more is possible for me to do, except to wait and watch and avail myself of any possible chance for interference after the arrival of the said cargo, I do not see. A suit in admiralty would be almost interminable, very expensive, and, if unsuccessful, would render me liable to a suit for heavy damages. It seems probable, therefore, that I shall be doomed to see the pirated property of my countrymen sold within a stone's throw of my office, with no power to prevent it. Not a very pleasant spectacle.

The narrative of these things affords another illustration of the necessity of a man-of-war in these waters. One such vessel could so easily have retaken the *Sea Bride* and her cargo; could exert so excellent an influence over the semi-civilized authorities of Madagascar and in all this region, that it is greatly to be deplored that none is here; and when the *Mohican* was at Cape Town, especially as the facts concerning the *Sea Bride* had been communicated by me to the consul there, and were by him laid before the captain of the *Mohican*, it seems unac-

countable that that vessel did not extend its cruise to Madagascar and Mauritius. It is to be hoped that Captain Glissa had sufficient to justify his conduct in turning back. Still I can but hope that some other vessel from our now very large navy may very soon appear in the Indian ocean.

I have the honor to be, sir, your most obedient servant,

W. R. G. MELLEN,

United States Consul.

HON. WILLIAM H. SEWARD, *&c., &c., &c.*

No. 1.

Mr. Mullen to the Colonial Secretary.

CONSULATE OF THE UNITED STATES OF AMERICA,
Port Louis, January 27, 1864.

SIR: In my letter to you dated December 8, 1863, I informed you that in a certain contingency I should have the honor of calling your attention again to the same subject, and of requesting the action of the colonial government for the protection of American interests. Allow me briefly to state the grounds and the object of the interference demanded:

1. Some time during the month of September, 1863, there arrived at Foul Pointe, Madagascar, an American vessel which had been captured by the so-called confederate cruiser Alabama, but which had not been condemned by any competent prize court.

2. This vessel was the *Sea Bride*, of 447 tons register, belonging to Boston, United States of America, and owned by C. F. White, of said city.

3. On her arrival at Foul Pointe, or when first seen by my informers, she was under the Hamburg flag, and had the name "*Helen*" upon her stern, which had been recently painted.

4. While the said vessel was lying at Foul Pointe one Christopher Elmsline, who represents himself as a British subject, resident at Cape Colony, and who also represents himself to be the owner of the so-called *Helen's* cargo, chartered the brig *Reward*, of this port of Port Louis, to convey the said cargo to this place.

5. This cargo, as appears by the bills of lading, copies of which are herewith enclosed, and the originals of which are at any time producible, was an assorted one, consisting of flour, tobacco, hams, &c., &c., &c.

6. A large part, if not all, of this cargo was transhipped directly from the so-called *Helen* to the *Reward* without having been landed.

7. Having received her cargo, the said *Reward* started on her voyage towards this port, but springing a leak, was compelled to put into St. Marie, where the said *Reward* was condemned and the merchandise placed in store.

8. Soon after disposing of her cargo, the *Sea Bride*, *alias Helen*, appeared in the port of St. Marie, having then no name upon her stern, and flying the so-called confederate flag.

9. The aforesaid Christopher Elmsline having arrived on this island, and having learned the fate of the *Reward* and the position of her cargo, chartered of the same agent or owner another vessel, called the *Sirene*, to proceed to St. Marie and bring hither the aforesaid cargo.

10. The said *Sirene* sailed from this port on the 6th instant, and may therefore, should circumstances be usually favorable, be expected to return here somewhere from the first to the tenth of next month.

11. The witnesses on whom I rely to substantiate the truth of these statements are Messrs. Gustave Hugen, late master of the said *Reward*, Adolph Cardier, late first mate of said *Reward*, the honorable commandant of St. Marie, and a seaman

named Henri Clarence, now on his way to Cork, but whose affidavit I expect from there immediately on his arrival. He was for a considerable period on board the Sea Bride, *alias* Helen, and can depose to the identity of the two.

12. I have the honor to lay before you these facts to indicate the evidence by which they can be proved, to point out to you the evidently piratical act committed by those who have thus sought to appropriate uncondemned American property. It becomes my duty, also, to point out to you the breach of neutrality already committed by the said Christopher Elmsline, one of her Majesty's subjects, and the still further breach of neutrality threatened in bringing the aforesaid uncondemned merchandise to this port for sale.

13. As a private individual, I beg to inform you of these acts and purposes, and to ask for the vindication of her Majesty's laws.

14. As the representative of American interests in this island, I beg to call your attention to them, and respectfully to demand the interference of the colonial government for the protection of these interests, and the seizure of the aforesaid merchandise immediately upon its arrival, until the question of its legal ownership is determined.

I have the honor to be, sir, your very obedient servant,

W. R. G. MELLEN,

United States Consul.

The Hon. the ACTING COLONIAL SECRETARY, &c., &c., &c.

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No. 2.

Mr. Rushworth to Mr. Mellen.



COLONIAL SECRETARY'S OFFICE,

Mauritius, February 3, 1864.

SIR: In reply to your further demand for interference by this government, made in your letter of the 27th ultimo, concerning the disposal of the cargo of the American ship Sea Bride, captured by the confederate cruiser Alabama, I have the honor, by direction of his excellency the governor, to inform you that his excellency has, by recent instructions, been apprised that her Majesty's orders, while authorizing the restoration to their proper owners of uncondemned cargoes of every kind which may be brought by any armed ships or privateers of either belligerent into British waters, or of the captured vessels themselves, do not apply to the articles which may have formed part of any such cargoes if brought within British jurisdiction not by armed ships or privateers of either belligerent into British waters, or of the captured vessels themselves, do not apply to the articles which may have formed part of any such cargoes, if brought within British jurisdiction not by armed ships or privateers of either belligerent, but by other persons who may have acquired, or may claim, property in them by reason of any dealings with the captors.

I have the honor to be, sir, your most obedient servant,

EDWARD RUSHWORTH,

Acting Colonial Secretary.

The CONSUL FOR THE UNITED STATES OF AMERICA, &c., &c., &c.

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No. 3.

Mr. Mellen to Mr. Rushworth.

CONSULATE OF THE UNITED STATES OF AMERICA,

Mauritius, February 4, 1864.

SIR: Your reply of the 3d instant to my letter of the 27th ultimo, demanding the interference of the colonial government in regard to the disposal of the

cargo of the American ship *Sea Bride*, captured by the so-called confederate cruiser *Alabama*, has been received. You will pardon me for saying that my regret is equalled only by my astonishment at the seemingly evasive and altogether unsatisfactory character of your communication. Though there be little hope that anything which may be added can induce his excellency the governor to reconsider and reverse his decision, yet I should fail in my duty were I not to urge upon his attention what seems to me sufficiently valid reasons for his doing so, and to present to him my formal and solemn protest against the determination which he has announced.

You inform me that his excellency has, by recent instructions, been apprised "that her Majesty's orders, while authorizing the restoration to their proper owners of uncondemned prize cargoes of every kind which may be brought by any armed ship or privateer of either belligerent into British waters, or of the captured rebels themselves, do not apply to the articles which may have formed part of any such cargoes if brought within British jurisdiction, not by armed ships or privateers of either belligerent, but by other persons who may have acquired, or may claim, property in them by reason of any dealing with the captors."

Of course, as I am not in possession of the "recent instructions" referred to, I am bound to accept your summary of them on this point as correct; but I must express my surprise at them, for if an unbroken cargo, coming within British jurisdiction uncondemned, should be returned to its lawful owners, it is difficult to say why a portion of such cargo should not be. If a captured cargo brought into British port in a belligerent vessel, or in the vessel in which it was captured, should be surrendered to the real owners, then why not when brought here in some other vessel into which it may have been transhipped merely for the purpose of covering an illicit transaction? Can the mere transhipment divest the true owner of his property? If the title to capture property cannot vest in the captors previous to its condemnation, then how can they, who themselves have no title to it, convey one to others, especially when the latter are perfectly well aware of the character of the merchandise they are purchasing? It seems, therefore, that a wide distinction in action is here made, where there exists little, if any, distinction in principle. Since informed of the seizure of the *Tuscaloosa* at Cape Town under special instructions from the imperial government, I had confidently expected that his excellency would find therein a safe precedent for him to follow in the seizure of the cargo of the *Sea Bride*. And remembering how the first decision of the governor of Cape Colony, in regard to the seizure of the *Tuscaloosa*, was reversed, I do not wholly despair of a similar result in regard to what seems to me the equally unhappy decision of his excellency the governor of Mauritius concerning the cargo of the *Sea Bride*.

I beg to call his excellency's very serious attention to the grave consequences which must naturally result from his decision. If the principle he has adopted be correct, I see not why Mauritius is not open as a market for any and all uncondemned captured merchandise which the so-called confederate cruisers may send here. Captain Semmes may dispense with his mock prize court, whose sessions are held in the cabin of the *Alabama*, the only prize court which the confederates have yet instituted, for he has only to sell his captured cargoes to British subjects, who, transhipping them into British bottoms on the high seas, may immediately bring them, and without peril, to this port. Indeed, he may convey his prizes to a point just outside the recognized three-mile line from the shore, and in plain sight thereof, where a nominal sale and an actual transhipment effected, all the operations of which may be directed from the land, and in a few hours after the merchandise may be spread upon the quays of this port. Credible information has reached me, through a person in communication with those who are endeavoring thus piratically to appropriate the cargo of the *Sea Bride*, that there are other captured American cargoes in a similar situation, the present

holders of which are waiting to see what will be the result of the shipment of the Sea Bride's cargo hither, to determine whether it will be safe for them to try the same market. It is certainly lamentable (I wish it could be characterized by no harsher phrase) that these persons are thus to be advertised that they are at liberty to prosecute their thievish purposes on this island. I am accordingly constrained respectfully to present to his excellency my official and solemn protest against the decision he has announced.

1. I protest against it as making an unreal distinction between an unbroken captured cargo arriving in an armed vessel, or the vessel in which it was captured, and a broken cargo reaching here in an unarmed ship, or in some other than that in which it was captured.

2. I protest against it as at variance with the universally recognized principle of public law, that no title can vest in or be given to captured merchandise previous to its condemnation.

3. I protest against it as leading to results so grave and disastrous as to make the principle on which it rests absurd.

I have the honor to be, sir, your very obedient servant,

W. R. G. MELLEN,

United States Consul.

The Hon. the ACTING COLONIAL SECRETARY, &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 900.]

DEPARTMENT OF STATE,

Washington, April 5, 1864.

SIR: We are informed by Mr. Dudley that the case of the extradition of the pirates who captured the United States schooner Joseph L. Gerrity is to be removed to London for final decision. Instructions in regard to the questions involved in that case, and also in that of the pirates of the Chesapeake, including a disquisition on the article of the Ashburton treaty, and the laws for carrying it into effect, will probably be forwarded to you by the next steamer.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES F. ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 901.]

DEPARTMENT OF STATE,

Washington, April 5, 1864.

SIR: I have to acknowledge the receipt of your despatch of the 18th ultimo. No. 621, which is accompanied by a copy of your correspondence with Earl Russell respecting the treatment of persons captured on vessels violating the blockade in certain circumstances. In a letter of the 24th ultimo, Mr. Welles has proposed a course with which I have expressed my acquiescence, and which will remove the difficulty indicated in proper cases. It is, that in cases where there is no doubt of persons so captured being aliens, and the neutrality of the vessels in which they were captured is undoubted, to direct their discharge unless they are required as witnesses.

You are at liberty to make such use of this information as your judgment shall approve.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

C. F. ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 904.]

DEPARTMENT OF STATE,
Washington, April 7, 1864.

SIR: Your despatch of the 23d of March, No. 628, has been received, and your proceedings therein related in regard to the supposed outfit of the screw steamer *Amphion* are approved. The frank explanations which Earl Russell so properly made upon that subject are appreciated by this government.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

C. F. ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 905.]

DEPARTMENT OF STATE,
Washington, April 7, 1864.

SIR: In your despatch No. 628 you have given me an account of the proceedings of the Scottish tribunal at Edinburgh, against the *Pampero*. The just opinions so clearly expressed by the court in that case serve to augment the regret which this government feels that the cause of international peace and harmony have suffered so deeply from the want of equal clearness and decision in the proceedings of the courts of London in the case of the *Alexandra*.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

C. F. ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 640.]

LEGATION OF THE UNITED STATES,
London, April 7, 1864.

SIR:

In regard to the notice sent to me in your No. 883, of the 22d March, of the spurious character of the paper called *Mr. Mallory's* report, I lost no time in giving the information to Lord Russell. I had had some conversation with him on the subject on Saturday last, and was aware that the crown lawyers were anxious to be assured upon the subject. I therefore addressed a note to his lordship, which appears to have come just in time to clear him from an embarrassment prepared for him in the House of Lords by Lord Clanricarde. I send a copy of my note, as well as a report of the debate in the London Times.

I know nothing directly from Lord Russell of the correctness of the statement made by Lord Clanricarde respecting the despatch of a steamer to open a communication with the rebel authorities at Richmond. I find in the newspaper called the *Index* an affirmation that the steamer *Petrel* had been actually sent with Mr. Crawford, the consul at Havana, and that admission had been refused to him by the naval blockading authority without specific instructions from Washington. If this be true, you probably know all about it. The selection of so well-known a sympathizer as Mr. Crawford cannot be regarded as auspicious of any very stern remonstrances against the outrageous proceedings of the rebels. If it be true that he has carried the spurious report of Mr. Mallory as

his main ground of objection, as Lord Russell appears to intimate, the turn which will be given to the whole proceeding may be readily foreseen.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.,

[Enclosure.]

Mr. Adams to Lord Russell, April 4, 1864.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,

London, April 4, 1864.

MY LORD: In connexion with the subject of the report of Mr. Mallory, the insurgent secretary of the navy, about which I had some conversation with your lordship on Saturday, I have the honor to apprise you that I have just received a despatch from Mr. Seward, informing me that after most diligent inquiries it has been ascertained that the supposed report is admitted by the editor of the New York Sun to have been prepared for the columns of that newspaper, in which it first appeared.

The reason assigned for this extraordinary proceeding is the desire of creating the impression that he had means of communicating with the insurgent capital superior to those of his professional brethren. The fact is, that the same newspaper already had earned that reputation, so that there seems to have been scarcely an adequate cause for resorting to so discreditable a step. I therefore still incline to believe in the correctness of the conjecture made by me to your lordship, that the information contained in the paper had been surreptitiously obtained from sources which the editor, being now forced to act, is unwilling to expose. This, however, can make no difference in regard to the manner in which the paper must now be viewed. I hasten to give this information to your lordship, in order that no further reliance may be placed upon it.

I pray your lordship to accept the assurances of the highest consideration with which I have the honor to be, my lord, your most obedient servant,

CHARLES FRANCIS ADAMS.

The Right Hon. EARL RUSSELL, &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 641.]

LEGATION OF THE UNITED STATES.

London, April 7, 1864.

SIR: I had a conference with Lord Russell on Saturday last. Not deeming it advisable to spend much time in going over the ground already so often covered, I contented myself with reading to him the whole of your despatches, No. 859, of the 2d, and No. 871, of the 11th of March.

His lordship did not appear to me to have any fresh reply to make to the reasoning. He contented himself with disclaiming the inference in your papers that the government had assumed the position that it could do no more. The object it had had in view all the time had been to know what was the extent of its powers under the enlistment law, so that it might shape its subsequent

measures accordingly. This it had attempted to gain by means of the prosecution of the Alexandra case. He did not attempt to disguise his disappointment at the issue of that experiment. He was not himself a lawyer, and therefore did not pretend to decide upon the correctness of the proceeding. All he could say was that the result seemed to him extraordinary. He caught at an expression used in one of your despatches, "of the uncertainty and *caprice* incident everywhere to the civil administration of justice," and repeated it as if not a little impressed with its force. He did not betray any knowledge of what the final decision on the appeal in the House of Lords was to be, although from my present point of view, since the decision has been declared, I can see that he foresaw it.

He then turned to the case of Lairds' iron-clads, and said that the government meant now to go on with that. A commission had gone out to get the evidence of the viceroy of Egypt in connexion with the claim of Mr. Bravay. I referred to the publication by the Lairds of their correspondence with the government on that subject, and commented with some severity on the manner in which they persevered in the pretence of that ownership. I mentioned the fact that Bravay's trumped-up claims on the present viceroy, on his averment of a verbal contract with his predecessor, of which there was no evidence admissible *aliunde*, had actually been released by the payment of a considerable sum of money at the very time when he was playing the part of owner of these vessels for the purpose of fulfilling that contract.

With regard to the case of the Pampero, at Glasgow, he said that a proposition had been made by the owners to put an end to it. They now admitted that it had been built for the rebels; but they affirmed that it was no longer theirs, and that they were ready to give bonds that it would not, if released, go into their hands. His lordship did not say that the government had assented to this. But I infer from a notice in the Edinburgh Statesman, a copy of which I transmit, that the arrangement has probably been carried out.

The conference ended thus, pretty much as it began. I am more and more convinced of the inutility of pressing these or any arguments further upon this ministry.

Meanwhile I should earnestly hope that our efforts to bring the deplorable struggle in America to a successful issue may be crowned with success, otherwise it is much to be apprehended that the causes of offence may be accumulated to such an extent on this side as to render an escape from a conflict almost impossible. Nothing will keep down the malevolent spirit * * * but the conviction that there is no hope left of effecting a permanent disruption of the United States.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

THE PAMPERO CASE.

We understand that the case of the Pampero will not now go to jury trial, an arrangement having been made for its settlement. We believe that by the arrangement the owners have consented to a verdict being entered for the crown, forfeiting the vessel on some one count of the information, to be selected by the owners, they making such explanatory statement on the subject as they may think desirable. It is provided, on the other hand, that the owners are to retain and trade with the vessel, but are not to sell it for two years except with the

consent of the crown; and that alterations are to be made in the structure of the vessel. We understand that the builders are no parties to the compromise, which provides for settling their claim and having it withdrawn from the proceedings.—*Scotsman*.

Mr. Adams to Mr. Seward.

No. 643.]

LEGATION OF THE UNITED STATES,

London, April 8, 1864.

SIR: In regard to the subject of your despatch No. 878, of the 21st of March, the delay, at Liverpool, in the proceedings on the claim for the surrender of the pirates who seized the schooner *Joseph L. Gerrity*, I have the honor to report that on the very day of the date of that paper I addressed a note to Lord Russell remonstrating against the delay. A copy of the note and accompanying papers from Mr. Dudley is transmitted. A copy of his lordship's formal acknowledgment of the same date is likewise sent. Since that, no further communication has been received from him, neither has any information been received from elsewhere.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

[Enclosures.]

1. Mr. Adams to Lord Russell, March 21, 1864.
2. Mr. Dudley to Mr. Adams, March 18, 1864.
3. Same to same, March 19, 1864.
4. Lord Russell to Mr. Adams, March 21, 1864.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,

London, March 21, 1864.

MY LORD: I have the honor to submit to your consideration copies of two letters received from Mr. Dudley, the consul of the United States at Liverpool, in relation to the proceedings had at that place on my application for the surrender of certain persons under the treaty of extradition between Great Britain and the United States.

It is unfortunately too obvious that the intent of the magistrate is, so far as the power may rest with him, to annul the provisions of that treaty in the present instance. I trust I may be pardoned if I point out to your lordship how grave would be the consequence to the permanence of the obligations of that compact, if such an example were to be set in Great Britain for imitation in other cases when the call may be made upon the United States.

I pray your lordship to accept the assurances of the highest consideration, with which I have the honor to be, my lord, your most obedient servant,

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c., &c.

[Enclosures.]

1. Mr. Dudley to Mr. Adams, March 18, 1864.
2. Same to same, March 19, 1864.

Mr. Dudley to Mr. Adams.

UNITED STATES CONSULATE,

Liverpool, March 19, 1864.

SIR: Commencing where I left off yesterday, Mr. Squarey and myself attended court this morning. Mr. Cobb, the counsel for the prisoners in the case of the schooner Joseph L. Gerrity, asked that the case should be postponed for seven days longer to enable them to sue out a writ of *habeas corpus*; stated that an affidavit had been already made and presented to Judge Wells for the writ. Mr. Squarey called the magistrate's attention to the treaty between the United States and Great Britain and the statute passed upon this subject; objected to any further postponement; stated that the case had been submitted on both sides, and that there was nothing left for the magistrate to do but to dismiss or commit the prisoners, reminding him that he had admitted, on the previous day, that the case as it stood was proved, and was one of clear piracy. The magistrate (Mr. Raffles) said, in reply, that he should not take back or deny anything that he had said on a previous occasion; that the case was undoubtedly made out, but as it was of a serious nature, he should grant the application and adjourn the case for seven days, and after that continue to adjourn it from week to week, without argument, until the middle of the next term, to give the prisoners an opportunity to have it heard by a full bench on *habeas corpus*, and that before finally committing the prisoners he would give their counsel a week's notice.

Yesterday, as appears by the newspapers, they made an application for a writ. I enclose you a slip cut from the Daily Post of this morning. I have directed Mr. Squarey to retain counsel in the case.

I am, sir, your obedient servant,

THOMAS H. DUDLEY.

HON. CHARLES FRANCIS ADAMS,

United States Minister, &c., &c., &c.

[Extract from the Liverpool Daily Post.]

Extraordinary charge of piracy.

Mr. Littler applied to his lordship for a writ of *habeas corpus* to bring up the three prisoners, who are remanded by Mr. Raffles, on a charge of piracy on board the Joseph L. Gerrity, before his lordship, for hearing the case or for dismissal. After stating the facts of the case, the learned counsel said that he quite understood the difficulty attending such an application, inasmuch as the persons were under remand, and were not committed; but he believed that they had been remanded from week to week for five times, in order that his lordship's opinion might be taken.

His lordship said that he did not think that the application was a proper one for him to receive, inasmuch as it was foreign to the business which he had before him; the proper quarter in which to apply was the learned judge who was now sitting in chambers for the purpose of receiving such applications. A conversation ensued between his lordship and the learned counsel upon this point, and ultimately his lordship consented to take the affidavits and the act of Parliament for perusal, and if he still thought that he should not grant the *habeas corpus*, he would not do so before hearing Mr. Littler upon the point, but it would not be in the public court. The court then rose.

Mr. Dudley to Mr. Adams.

UNITED STATES CONSULATE, LIVERPOOL,

March 18, 1864.

SIR: Eleven o'clock to-day was the hour to which the case against the pirates of the Joseph L. Gerrity was last adjourned. I attended with Mr. Squarey. After waiting some time, Mr. Melly, who was presiding as magistrate, informed me that Mr. Raffles was on the grand jury, and had instructed him to call up the case, and to remand the prisoners for seven days longer to enable them to sue out a *habeas corpus*.

I told him Mr. Squarey, my legal adviser, was in the court, and that we should oppose this or any further continuance of the case. Mr. Squarey came up and informed the court that he should oppose any further adjournment of the case, and ask that the prisoners be at once delivered to the authority of the United States. The presiding magistrate said, if the continuance was to be opposed he thought it best to send for Mr. Raffles, who had heard the case. After waiting from eleven o'clock until one, and Mr. Raffles not coming, it was agreed that the matter should stand over until to-morrow.

The conduct of the stipendiary magistrate, before whom the case has been heard, is most extraordinary. On the day first fixed for hearing, myself and lawyer attended. When the prisoners appeared, Mr. Raffles, the magistrate, asked if they had a lawyer. They answered no. The policeman who stood next to them stated that they thought it not worth while to employ one. The magistrate suggested that they should be defended, and directed them to go down stairs with the women, who were represented to be their wives, and talk about it. They all went down, and after remaining for some time, came up, attended by Mr. Cobb, a lawyer, who asked that the case might be continued until the next day. This was granted. On the next day the parties all appeared; the prisoners attended by their lawyer. The case was gone into, the evidence all taken, and the lawyer heard in argument, and the case submitted to the justice on both sides. It established a clear case of piracy without the least extenuation or justification.

This was three weeks ago. At the conclusion the magistrate stated that he should defer his decision for one week. I attended with my lawyer at the time. He then informed us that he had sent up the evidence to the Home Office and was waiting for instructions, which he had not received, and should be under the necessity of postponing the case for seven days longer.

This last adjournment was this day week. Mr. Wilding, the vice-consul, in my absence, and Mr. Squarey, attended. The magistrate then informed them that he wanted further information on the case, and would remand the prisoners seven days longer to give them an opportunity of producing evidence in proof of their statement that they were acting as confederates, by confederate authority. He would not say what the legal effect of that evidence might be; it was for investigation when it was produced. As the case then stood upon the evidence before him, it was a clear case of piracy.

The last seven days are now up, no evidence is produced, and it is difficult to see upon what principle it could be introduced at this stage of the case after the evidence has all been heard and the case submitted to the magistrate for his decision, without violating every principle upon which legal proceedings are conducted; and he now proposes to adjourn the case seven days longer to enable the prisoners to sue out a writ of *habeas corpus*. It must be remembered that there is no evidence whatever in the case to show that the prisoners are confederates, or that they were acting under confederate authority.

With high respect, I am, sir, your obedient servant,

THOMAS H. DUDLEY.

His Excellency CHARLES FRANCIS ADAMS.

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Earl Russell to Mr. Adams.

FOREIGN OFFICE, *March 21, 1864.*

SIR: I have the honor to acknowledge the receipt of your letter of this day's date, enclosing copies of two letters from the United States consul at Liverpool, respecting the proceedings of the police magistrate at that port in regard to the persons whose extradition has been demanded in the case of the Joseph L. Gerity, and I have the honor to state to you that I have lost no time in forwarding your representation to the proper department of her Majesty's government.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 644.]

LEGATION OF THE UNITED STATES,
London, April 8, 1864.

SIR: On the 31st of March Lord Russell addressed to me a note covering a newspaper report of the trial of the men alleged to have been enlisted on the steamer Kearsarge, and asking me if I had any explanations to make in regard to the same. Recollecting his lordship's having said to me, before the adjournment of Parliament for the Easter holidays, that he should, in connexion with the observations of Lord Clanricarde in the House of Lords, like to have such explanations, I drew up a paper on the subject on the 2d instant, which I sent to him at once. He appears to have had recourse to it in the debate that took place on Tuesday, the 5th. Copies of all the papers are herewith transmitted. It is intimated by Lord Russell in his speech that the correspondence is not closed.

In the midst of these questions Captain Winslow thought proper to send notice to Mr. Morse, the consul here, that he desired to come up to London to make some repairs. Mr. Morse had barely time to apprise me of this intention, before learning that he was actually here and in the Victoria docks. Under these circumstances I wrote as soon as possible a note to Lord Russell, frankly stating the facts, and asking the requisite permission. It certainly was not an opportune piece of information to him. The consequence was, a reply not overgracious, complaining of Captain Winslow's conduct in other respects, and omitting all notice of the permission asked for. I immediately made a rejoinder, and considering his note as equivalent to a refusal, I notified him that I should direct Captain Winslow to leave forthwith. Copies of all the papers are transmitted.

I learn, this morning, that the Kearsarge left yesterday, having completed all necessary repairs, before the reception by the captain of my notice.

* * * * *

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

[Enclosures.]

1. Lord Russell to Mr. Adams, March 31, 1864.
2. Mr. Adams to Lord Russell, April 2, 1864.
3. The Times, (debate in Lords,) April 6, 1864.
4. Mr. Adams to Lord Russell, March 31, 1864.
5. Lord Russell to Mr. Adams, April 4, 1864.
6. Mr. Adams to Lord Russell, April 6, 1864.
7. Mr. Adams to Captain Winslow, April 6, 1864.

[London Times, April 6, 1864.]

HOUSE OF LORDS, *Tuesday, April 5, 1864.*

THE KEARSARGE—BREACH OF THE ENLISTMENT ACT.

The Earl of Donoughmore said that certain persons at the last assizes for the county of Cork had pleaded guilty to an indictment charging them with having violated the foreign enlistment act. Their offence was having enlisted certain subjects of her Majesty to serve on board the United States ship-of-war Kearsarge. The captain of that vessel stated that the men came on board without his knowledge, and that when he went to Brest he put them on shore, but that, as they were then without the means of subsistence, he conveyed them back to Cork. When the subject was last alluded to, the noble earl (Russell) made what certainly appeared to be a very extraordinary statement, for he said he could not see what else the captain could have done. It appeared, however, from the evidence that had been taken, that the men were actually put into the uniform of the United States navy by the order of the officers of the ship. He wished to know whether the noble earl had required any explanation from the American minister with regard to this circumstance.

Earl Russell said that at an early period of the discussion of this matter he had complained to the United States minister of the conduct of the officers on board the Kearsarge. After what had passed in that house and in a court of justice in Ireland, he had again called the attention of the United States minister to the subject, and had asked him to refer to the newspapers and to the opinion given by Mr. Justice Keogh. The United States minister informed him that in the month of November last he had received instructions from his government that if the consul had been at all instrumental in violating the foreign enlistment act he should be at once dismissed, and that, with regard to the officer in command of the ship, if the minister found that he was to blame, he was to be reported to the government, in order that the proper notice might be taken. Mr. Adams did not act upon those instructions, because he did not consider that there was any blame due either to the consul or the officer in command of the ship in enlisting these persons into the service of the United States. The correspondence was not yet concluded, but when further explanations had been given the despatches would be laid on the table.

The Earl of Derby said it appeared Mr. Adams did not deny the essential facts of the case, viz: that these men were examined by the surgeon and attested, that their names were borne on the books of the ship, and that they were clothed in the uniform of the United States. It was impossible, therefore, that the officers of the ship should not be cognizant of the men being on board.

The Marquis of Clanricarde said he believed the Kearsarge was now repairing at one of our ports. If so, why should not the officers at once come to London and make such a statement of the real facts as the American minister would be prepared to vouch for? It was rather too much to extend to them the hospitality of this country in the face of such statements as were made on the trial at Cork. Either these gentlemen had stated the truth or not. If they had told the truth, let them come forward and verify the facts. No one who knew Mr. Adams would dispute whatever he was prepared to vouch for from his own personal knowledge.

The subject then dropped.

Earl Russell to Mr. Adams.

FOREIGN OFFICE, *March 31, 1864.*

SIR: I have the honor to bring to your notice an account, taken from a newspaper, of what passed at the trial before Mr. Justice Keogh, of the British sub-

jects indicted for having taken service in the United States ship Kearsarge, at Queenstown, in violation of the provisions of the foreign enlistment act; and, with reference to the correspondence which has passed between us, I have the honor to request that you will inform me whether you have any explanations to offer on the subject.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,
London, April 2, 1864.

MY LORD: I have had the honor to receive your note of the 31st of March, bringing to my notice an account, taken from a newspaper, of what passed at a trial before Mr. Justice Keogh, of the British subjects indicted for taking service in the United States ship Kearsarge, at Queenstown, and further requesting me to inform you whether I have any explanation to offer on the subject.

I am very happy to seize the opportunity thus offered to me to state the facts connected with that case, so far as they have been submitted to my examination. And first, it gives me great satisfaction to apprise your lordship that so long ago as the 26th of December last my government, on the receipt of the first intelligence of your note to me of the 30th of November, addressed to me instructions immediately to investigate the charge against both of the officers referred to in that note, and if I found it sustained against the consul, Mr. Eastman, to dismiss him at once without waiting further directions. And with respect to the commander of the Kearsarge, in case he was found to have been guilty, I was directed to apprise your lordship that he would be promptly relieved of his command, and other satisfactory amends would be offered to her Majesty's government.

I trust that this statement will serve to convince your lordship that, so far as my government is concerned, it has no disposition to tolerate any act of its officers which shall be shown to have been done in contravention of the laws of this kingdom.

The reason why I have not acted under these instructions has been that I have thus far seen no evidence to justify me in doubting the statement of the consul, Mr. Eastman, made to me, that he had no part whatever in the matter. The first intelligence he appears to have had of the men being actually on board the vessel was by a letter from Captain Winslow, reference to which is made in the letter of Rear-Admiral Jones, of the 7th of December. The only testimony affecting him is that of Patrick Kennedy, merely to the effect that he saw him on board the Kearsarge in conversation with some of the officers. Mr. Eastman had early informed me that he did go on board to see the captain; that he found he had gone ashore; that he did not go below, but stood conversing with the first lieutenant a little while on a subject having no relation to enlistments, and that he soon returned to land.

I trust that your lordship will agree with me in the opinion that the mere fact of being on board the Kearsarge would not justify me in suspecting the consul of being privy to an unlawful act, in the face of his positive denial to the contrary.

With regard to his denial of the charge against Captain Winslow, it is obvious that he could have made it only upon such information as he then possessed, and his own personal belief at the time that it was correct. Even were it admitted that he had been mistaken in this averment, it does not at all follow that his affirmation respecting himself is in any way impeached.

Having thus no evidence whatever in my hands, coming either from the persons alleged to have been enlisted, or from any other source, to prove Mr. Eastman's knowledge or participation in the acts charged, no case seemed to exist to justify me in pursuing any investigation. At the same time I feel it my duty to add that I have been directed to communicate to your lordship the desire of my government that I may be furnished with any such additional proofs as may be in your possession and may be deemed to be material, should it still be the wish of her Majesty's government that the matter should be further pursued.

In regard to the action of the officers of the *Kearsarge*, who appear to be generally involved, by the language of Mr. Justice Keogh, in the suspicion of being parties to a violation of the enlistment act, the facts, so far as I have been able to ascertain them, are these :

It appears that one James Haley, a native of Ireland, but now in the service of the United States as a petty officer on board the *Kearsarge*, on or about the 2d of November went ashore to visit his relatives at Ringaskiddy. While at this place there is reason to believe that he suggested to several men whom he met the probability that they might get employment on board the steamer. There is no evidence that he himself promised them any, nor that he had any authority whatever to do so if he did. In point of fact, he could have had none. To the extent thus defined, it would seem as if he might have made himself liable as having violated the spirit if not the letter of her Majesty's laws.

The announcement thus made and soon spread abroad produced an immediate effect among the population in the vicinity, the consequence of which was that a number of men, variously estimated at from one hundred and fifty to three hundred, went out to the ship eagerly seeking to be employed. A few of these, being the immediate townsmen of James Haley aforesaid, appear to have been presented to officer Thornton as applicants for enlistment, who, in the absence of the commander, and of any definite instructions, gave them reason to suppose that they might be engaged. They were therefore subjected to the usual examination, subject to the approbation of the captain on his return. To the extent here specified officer Thornton appears to have made himself liable as having violated the spirit if not the letter of her Majesty's law. It is proper in his case to add that he avers he was not aware, at the time, of the provisions of that law.

On the return of the captain to his vessel he was consulted in regard to what had been done, and immediately gave orders not only to forbid the enlistments, but to clear the ship of all the men who had come ; and further, to forbid the numerous boats that were crowding around it from coming alongside. The orders were executed not without considerable difficulty, from the desire of the men to stay, and the vessel sailed.

On the next day, however, it was discovered that several men, principally the neighbors and townsmen of James Haley, of Ringaskiddy, had succeeded in escaping detection and were still on board. That these people had been concealed with the connivance of some person or persons belonging to the crew of the *Kearsarge*, and in the hope of ultimately retaining them, there can be little doubt. But there is no reason to suppose that the commander had any knowledge of or share in it. On learning the fact, his first decision was to put them ashore at Brest, the port to which he was going. This was actually done. But on a reconsideration of the destitute condition in which they would be left, and of the probability that they might be driven to have recourse to enlistment in the vessel formerly known to your lordship as the *Oreto*, and now the *Florida*, which has been notoriously fitted out from a British port, and filled with British subjects, for months past carrying on war against the United States, he determined to take them on board once more and to return to Queenstown for the purpose of restoring them in safety to their own homes. This was accordingly carried out.

The conclusion to which I arrived from an examination of the facts as they

have been recited is, that no evidence is brought forward to show that Captain Winslow ever gave any authority to enlist one of these people in Queenstown or elsewhere. On the contrary, he forbid any such proceeding so soon as he knew it was contemplated; and when he found that his orders had been evaded he took the only method in his power to repair the wrong by promptly restoring the individuals concerned to the condition from which they had been taken.

I am not, however, disposed to doubt that among some of those constituting the crew of the Kearsarge there may have been a desire to keep these men, with a hope that they might ultimately be suffered to retain their places on board. But I have no reason to suppose that this motive operated upon a single one of the principal officers of the ship.

Presuming that it was not the purpose to pursue these investigations further than was necessary fully to sustain the majesty of the British law, I have rested quiet in the conviction that the clearly proved absence of all intention on the part of my government, or of any of its responsible agents, to commit an offence in the present instance, had most conclusively effected that object. If, however, it should turn out that additional measures would be agreeable to her Majesty's government, I shall be happy to be informed of the fact by your lordship, as well as to receive any and all further proofs that may be in its possession, in order to enable me to arrive at a more complete and satisfactory result.

In the mean time I am instructed to inform your lordship that my government, in this as in any other case that may occur, will not fail to vindicate its respect for the laws of Great Britain and for the law of nations.

I pray your lordship to accept the assurances of the highest consideration with which I have the honor to be, my lord, your most obedient servant,

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c., &c.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,
London, March 31, 1864.

MY LORD: I learn from the consul of the United States at this place that application has been made to him by the commander of the United States steamer Kearsarge to obtain an entry into the Victoria docks for the purpose of effecting some necessary repairs to the boilers of the vessel. As the steamer is reported to have actually arrived shortly after the notice, I lose no time in soliciting of her Majesty's government permission for her to remain here for the period that may be necessary to complete the repairs.

I pray your lordship to accept the assurances of the highest consideration with which I have the honor to be, &c., &c., &c.,

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c., &c.

Earl Russell to Mr. Adams.—(Received April 5.)

FOREIGN OFFICE, *April 4, 1864.*

SIR: I have the honor to acknowledge the receipt of your letter of the 31st of March requesting permission for the United States ship Kearsarge to remain in the Victoria dock for the purpose of effecting some repairs to her boilers.

Anxious as her Majesty's government are to extend hospitality to vessels-of-

war of the United States, her Majesty's government cannot but be aware that the Kearsarge has now for a considerable period been cruising in the immediate neighborhood of her Majesty's coasts under circumstances which render it impossible to doubt that that vessel has been using the British channel as a station or place of resort for warlike purposes, and her Majesty's government have been informed that the Kearsarge came up the river and went into the Victoria docks before your application was made. Considering the orders issued by her Majesty for the preservation of a strict neutrality in the contest in North America, her Majesty's government feel themselves entitled to complain that, before asking for permission, the Kearsarge has proceeded to refit in the Victoria dock.

I have the honor to be, with the highest consideration, sir, your most obedient servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,
London, April 6, 1864.

MY LORD: I have the honor to acknowledge the receipt of your note of the 4th instant, in reply to mine of the 31st of March, requesting permission for the United States steamer Kearsarge to remain in the Victoria dock for the purpose of effecting some repairs.

I cannot deny the precipitate action of Captain Winslow in coming up to London before permission had been obtained for him. I shall forthwith notify him of your lordship's remonstrance, and shall direct him to depart at once without waiting to complete his repairs.

If Captain Winslow has been engaged for a considerable period in cruising in the immediate neighborhood of her Majesty's coasts, or using the British channel as a station or place of resort for warlike purposes, as your lordship is pleased to intimate, I would respectfully call your attention to the fact that the duty has been in a measure imposed on him by the circumstance that a war vessel belonging to her Majesty's government has been suffered to pass into the hands of the enemies of the United States, to escape from this coast with the privy and connivance of some of the officers of her Majesty's dock-yard, and take refuge in a port on the other side of the channel, where efforts are certainly making, with the aid of supplies and men furnished from this side, to fit her to carry on hostilities against the people of the United States. Surely, under such circumstances, if my government, instead of depending on her Majesty's authority to take active measures to intercept that vessel, which would be scarcely an unreasonable expectation, has endeavored to accomplish that task with its own forces, I trust it might at least be permitted to hope that no reasonable facilities would be denied to the accomplishment of its purpose, especially when the denial would practically secure the safe accomplishment of the nefarious enterprise.

I pray your lordship to accept the assurances of the highest consideration with which I have the honor to be, my lord, your most obedient servant.

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c., &c.

Mr. Adams to Captain Winslow.

LEGATION OF THE UNITED STATES,
London, April 6, 1864.

SIR: I regret to be compelled to inform you that her Majesty's government, in reply to my application for permission to the Kearsarge to remain here for the completion of some repairs, has taken exception to the sudden manner in which the vessel has been brought here and put into dock, before notice given or any discretion exercised about allowing time for an answer. I am obliged to admit that there has been an omission of courtesy in this respect which is embarrassing.

There has been also some disposition to object to your use of the harbors on this side as a base of hostilities, which I desire to mention for the sake of putting you on your guard against giving causes of offence.

As I do not understand his lordship as giving the permission asked for, I regret to be constrained to request you to proceed to sea without delay, whether the repairs be completed or not.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Captain JOHN A. WINSLOW, U. S. N.,
U. S. S. Kearsarge, London.

Mr. Adams to Mr. Seward.

No. 645.]

LEGATION OF THE UNITED STATES,
London, April 8, 1864.

SIR: The Amphion has left this port. On the 2d instant Lord Russell wrote me a note in answer to my representation, a copy of which is transmitted. You have a copy of the latter already with my despatch No. 628, of the 23d March. Mr. Morse writes me, since these events, that he is not quite sure that the vessel may not be for Denmark.

I have likewise addressed a note to Lord Russell on the basis of two depositions forwarded from Liverpool by Mr. Dudley, further remonstrating against the enlistment of men by the insurgent agents at that place. Copies of these papers and of Lord Russell's acknowledgment are annexed.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

Earl Russell to Mr. Adams.

FOREIGN OFFICE, *April 2, 1864.*

SIR: Referring to my letter of the 26th ultimo, I have the honor to state to you that her Majesty's government have had before them further reports addressed to the home department respecting the preparations making for sending the Amphion to sea, and the service on which it is intended to employ her; and that her Majesty's government are again advised that there is no evidence tending to show any actual or contemplated violation of the foreign enlistment act in this case.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,

London, April 5, 1864.

MY LORD: I have the honor to submit to your consideration copies of a letter from Mr. Dudley, consul of the United States at Liverpool, and of two depositions, showing the continued agency of the house of Jones & Co., British subjects, in enlistments and payment of British subjects in the service of the insurgents in the United States.

I pray your lordship to accept the assurances, &c., &c.,

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c., &c.

Mr. Dudley to Mr. Adams.

UNITED STATES CONSULATE,

Liverpool April 2, 1864.

SIR: You will find enclosed copies of two affidavits, one of Catharine Pratt, the other of Catharine Dow, wives of two of the men who were taken from Liverpool and enlisted on the confederate steamer Rappahannock, now at Calais. These affidavits show that the house of Jones & Co., 28 Chapel street, Liverpool, are implicated as well in enlisting the men for this vessel as they were for the steamer Japan, now called the Georgia.

The husbands of these women are now in Liverpool. They tell me Mr. Morse took their statements; hence I have not.

I am, sir, your obedient servant,

THOMAS H. DUDLEY.

HON. CHARLES FRANCIS ADAMS,

Minister of the United States.

Deposition of Catharine Pratt.

I, Catharine Pratt, of Llewellyn street, Liverpool, in the county of Lancaster, make oath and say: I am the wife of John Pratt, of 9 Llewellyn street aforesaid, fireman. On the 7th February last my husband informed me that he was going to London to join a steamer bound for the West Indies, and on the following night he left Liverpool for London with Welsh, Cunningham, Buchanan, and others. I learned from the wife of one of the engineers who had gone with my husband that they had gone from London to Calais to join the steamer Rappahannock, and I wrote to my husband to let me know where he was going to, and I received a letter from him that he had joined the Rappahannock for 12 months, not to exceed two years, at £16 19s. 10d. a month, and had got one month's advance, and directing me to call at Jones & Co.'s office, Chapel street, Liverpool, where they would pay me the advance and the half pay. I called at Jones's office on the 28th of March last, in company with Mrs. Welsh and Mrs. Dow, and we saw the cashier, and Mrs. Dow told him that we had called for our half pay, when he referred to a roll of paper and said that our names were down, but that he could not pay us then, as he had not received orders from Paris, and directed us to call again on the 31st March. We called again on the 31st March, when we saw Mr. Jones, and told him that we had called for our pay, when he said that he had not received orders from Paris yet to pay us, and did not give us any definite answer when we were to call again for it.

The mark of

X
CATHARINE PRATT.

Sworn at Liverpool, in the county of Lancaster, the 2d day of April, 1864, this affidavit having, in my presence, been previously read over to the deponent, who appeared perfectly to understand the same, and made her mark thereto in my presence. Before me,

HENRY C. DUNCAN,
A Commissioner to Administer Oaths in the County.

Deposition of Catharine Dow.

I, Catharine Dow, of 5 Llewellyn street, Liverpool, in the county of Lancaster, make oath and say, as follows: I am the wife of John Dow, fireman. On the 7th February last my husband informed me that he was going to London to join a steamer bound for the West Indies, and on the following evening he left Liverpool for London, in company with Welsh, Cunningham, Buchanan, and others. Not having heard from my husband, I made inquiries of the wife of one of the engineers who had gone with him, who informed me that they had gone from London to Calais to join the steamer Rappahannock, and I wrote to my husband to let me know where he was going to, and received a reply informing me that he had joined the steamer Rappahannock for 12 months, not to exceed two years, at £6 19s. and 10d. a month, and had received one month's advance, and directed me to call at Jones & Co.'s office, Chapel street, Liverpool, where I would be paid. I called at Jones's office about the 28th of March, in company with Mrs. Welsh and Mrs. Pratt, when we saw the cashier, when we told him that we had called for our half pay, when he referred to a roll of paper and said that our names were down, but that he could not pay us then, as he had not received instructions from Paris to do so, and directed us to call again on the 31st of March. We called again, as directed, on Thursday last, the 31st March, when we saw Mr. Jones, and told him that we had called for our husband's half pay, when he said that he had not yet received orders from Paris to pay it. We then asked him when we should call again for it, but he did not give us any definite answer.

CATHARINE DOW.

Sworn at Liverpool aforesaid this 2d day of April, 1864, before me,
HENRY C. DUNCAN,
A Commissioner, &c., &c.

Erst Russell to Mr. Adams.

FOREIGN OFFICE, April 6, 1864.

SIR: I have the honor to acknowledge the receipt of your note of yesterday's date, enclosing copies of a letter from the United States consul at Liverpool, and two affidavits relative to the part taken by Messrs. Jones & Co., of Liverpool, in enlisting men for the service of the so-styled Confederate States.

I have the honor to be, with the highest consideration, sir, your most obedient,
humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 646.]

LEGATION OF THE UNITED STATES,
London, April 8, 1864.

SIR: The business of blockade running appears to be carried on with uninterrupted activity. The present form of agreement is to run the inward cargo on account of the so-called confederate government, on the condition of receiving cotton in exchange for it, or for bonds for the back trip. It is this plan which has probably contributed to revive the value of the confederate loan.

I transmit a printed copy of a new project of a joint stock company which has been sent to me anonymously, with the marginal annotations as you will find them. I beg to call your particular attention to the reference to *open* ports for a full supply of the finest descriptions of cotton. The names attached are those of persons heretofore well known as rebel agents or sympathizers.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

[Private and confidential.]

ATLANTIC TRADING COMPANY—LIMITED.

CAPITAL £200,000, IN £100 SHARES, WITH POWER OF INCREASING TO
£500,000 STERLING.

Prospectus.

The Atlantic Trading Company, limited, has been formed for the purchase of first-class paddle-wheel steamers, of light draught, great speed, and an average capacity of 800 bales of cotton, which forms the basis of the *business to be transacted*, (blockade running.)

It is intended to employ the steamers in trading with ports in the Confederate States, and participating in the large profits attendant on this business.

*The practical experience in the trade enjoined by the promoters** affords a guarantee of success, and they are enabled to offer the additional advantage of trading *with open ports*, where a full supply of the finer descriptions of cotton is obtainable, for which the light draught of the steamers is peculiarly adapted.

Arrangements are being perfected with C. J. McRae, esq., agent of the Confederate States, to carry in merchandise, and to bring out on the return voyage full cargoes of cotton, in exchange for supplies, or for bonds of Confederate States cotton loan.

The first steamer will be despatched in April; the second and third in May; the fourth in June; and the fifth in July.

The vessels are in the hands of builders of celebrity, the materials of best description, with all the modern improvements in the machinery and boilers which experience suggests, with a guaranteed speed, loaded, of 17½ statute miles per hour.

The following sketch of account shows the amount of capital required and probable results.

*Messrs. Isaac Campbell & Co., 71 Jermyn street, London; T. & J. Johnston, Walmer building, Water street, Liverpool; George Wigg, late of Nassau, now in Liverpool; shipbuilders to Co. Messrs. J. C. Man & Co.

Estimate.

Five paddle steamers.....	£125, 000
Outfits.....	10, 000
Appropriations for purchase of cotton loan, bonds or [and] merchandise.....	40, 000
Reserved for additional steamers.....	25, 000
	<hr/>
	200, 000
	<hr/>

Results of two successful trips.

8,000 bales of cotton, 450 pounds each, sold in Liverpool, to net 2 shillings per pound, free of all charges and commissions.....	£360, 000
Freight earned by steamers between neutral port and confederacy, say £5,000 per voyage.....	50, 000
	<hr/>
	410, 000
Less working expenses between neutral port and confederacy....	30, 000
	<hr/>
	380, 000
	<hr/>

Allowing as above for only two successful trips of each vessel, the profits realized will amount to £180,000. This calculation, however, may be considered the least favorable one that should be taken. The life of vessels of the class to be employed by the confederacy may be computed as worth five trips each, with the following result:

2,000 bales of cotton, net in Liverpool.....	£900, 000
Freight earned between neutral port and confederacy.....	125, 000
	<hr/>
	1, 025, 000
Less working expenses five steamers, each five trips between neutral port and confederacy, 25 trips at £3,000.....	75, 000
	<hr/>
	950, 000
Cost of steamers, outfit, merchandise, cotton loan, &c.....	200, 000
	<hr/>
Profit.....	750, 000
	<hr/>

Mr. Adams to Mr. Seward.

No. 647.]

LEGATION OF THE UNITED STATES,
London, April 8, 1864.

SIR: With my despatch No. 621, of the 18th of March, I laid before you a copy of a note addressed by me, on the 16th of that month, to Lord Russell, on the subject of the fraudulent use by the rebels of the British flag to cover their vessels and crews in running the blockade. I now transmit a copy of the sequel of that correspondence.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCOIS ADAMS.

HON. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

Earl Russell to Mr. Adams.

FOREIGN OFFICE, *March 21, 1864.*

SIR: I have the honor to acknowledge the receipt of your letter of the 15th instant, respecting the course proposed to be adopted by the government of the United States with regard to British subjects found on board vessels captured in endeavoring to break the blockade.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 648.]

LEGATION OF THE UNITED STATES,
London, April 8, 1864.

SIR: In connexion with my despatch, No. 495, of the 10th of September, I have the honor to forward a copy of a note of Lord Russell to me, of the 23d of March, reporting an arrangement as having been made with Messrs. Wood & Co., of New York, in conformity with the understanding suggested in your despatch No. 582, of May 5, last.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS,

HON. WILLIAM H. SEWARD,

Secretary of State, &c., &c., &c.

Earl Russell to Mr. Adams.

FOREIGN OFFICE, *March 23, 1864.*

SIR: I have the honor to state to you, for the information of your government, that her Majesty has for certain purposes, and under certain conditions, granted to the agent of Messrs. Wood & Co., of New York, a lease of the island of Sombrero, respecting which you did me the honor to address me certain notes in the course of last year, the last of the series bearing date the 23d of November last.

Her Majesty's government are aware that the government of the United States desire to reserve to themselves the right, if they should think fit hereafter to do so, of calling in question the title of her Majesty to this island, and they understand that on the present occasion it is mutually agreed between the two governments that the acquiescence of the United States government in this particular act of her Majesty's government is not to prejudice or affect any claim which the United States may hereafter think fit to advance with respect to Sombrero.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 649.]

LEGATION OF THE UNITED STATES,
London, April 8, 1864.

SIR: Having already made honorable mention of the conduct of Sir Frederick Bruce in China, in connexion with the transactions of the fleet of Captain Osborne, under the instructions contained in your despatch No. 839, of the 8th of February, I take it for granted that you do not desire me to repeat it. I presume that my report made in my despatch No. 606 was not in your memory when you renewed the instructions in your No. 880, just received. Should you, however, have reasons for an additional representation I shall be happy to make it. One of the steamers of the China fleet is reported as having arrived in England.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

*Secretary of State, Washington, D. C.**Mr. Adams to Mr. Seward.*

[Extract.]

No 651.]

LEGATION OF THE UNITED STATES,
London, April 8, 1864.

SIR: As Mr. Evarts does not appear yet to have returned from his visit to Rome, I transmit a report, in the Times of yesterday, of the decision of the House of Lords on the appeal in the case of the Alexandra. It appears that here, as in the courts below, there was a difference of opinion. The case has thus, after passing through the ordeal of all the courts, been virtually decided by Chief Baron Pollock's summary instructions to the jury on the first hearing, understood by them in a different sense from that which he claims to be the true one. All the rest has been a mere contest about forms. The government has been completely baffled in its honest endeavor to obtain a legal base of action against a flagrant violation of the neutrality of the kingdom, and is thrown back upon the task of commencing the work all over again. There never was such a comedy performed on a grave subject in the whole history of law.

* * * * *

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, &c., &c., &c.

THE ALEXANDRA CASE.

APPEALS.—HOUSE OF LORDS, APRIL 6.—JUDGMENT.

Their lordships sat to-day at half past 2 o'clock. The noble and learned lords present were the Lord Chancellor, Lord Cranworth, Lord St. Leonards, Lord Wensleydale, Lord Chelmsford, and Lord Kingsdown.

THE ATTORNEY GENERAL vs. SELLIM AND OTHERS.

Their lordships delivered judgment in this great cause which originally involved questions of such vast importance, but which has finally been decided upon the simple technical points as to the proper meaning of the word "practice" as used in certain sections of the Queen's remembrancer's act. It is scarcely necessary, under the circumstances, to do more than simply state the fact that a seizure of the ship *Alexandra* having been made, it was followed by an information being filed by the crown against the defendants, to ascertain by the verdict of a jury whether at the time of such seizure the condition of the vessel brought her within the provisions of the foreign enlistment act, 59th George III, cap. 69. The trial commenced on the 22d of June last before the lord chief baron and a special jury, and terminated on the 24th of that month in favor of the defendants. The late Sir William Atherton, the then attorney general, conducted the prosecution, and before the finding of the verdict proposed to tender a bill of exceptions as to a portion of the judge's ruling. Some difficulty arising in consequence of his lordship refusing to accept the interpretation of the attorney general of portions of his summing up, it was suggested that the better course would be to move for a new trial. Baron Bramwell, however, foresaw that some difficulty might arise upon the question whether the common law procedure act applied to proceedings like those before the court, and that, therefore, in the event of the application for a new trial being refused, there would be no appeal from the decision of the court of exchequer. The common law procedure act, which to a certain extent assimilated crown proceedings to civil actions, did not comprehend the case of an appeal from a decision making absolute or discharging a rule, and he thought the matter very doubtful. In order to remedy this defect, the attorney general moved to apply the common law procedure acts of 1852 and 1854 and the rules of pleading and practice on the civil side of the court to the revenue side under the 26th section of the Queen's remembrancer's act, 22d and 23d Victoria, cap. 21. That section states "that it shall be lawful for the lord chief baron, and two or more barons of the exchequer, from time to time to make all such rules and orders as to the process, practice, and mode of pleading on the revenue side of the court, 'and as to some other things,' as may seem to them necessary and proper, and also from time to time, by any such rule or order, to extend, apply, or adapt any of the provisions of the common law procedure act, 1852, and the common law procedure act, 1854, and any of the rules of pleading and practice on the plea side of the said court to the revenue side of the said court as nearly as may be uniform with the process, practice, and mode of pleading on the plea side of said court." Their lordships, after some consideration of the matter, on the 4th of November, 1863, the eve of the motion for a new trial being made, issued the following rules:

"COURT OF EXCHEQUER, REVENUE SIDE.

"In pursuance of the provisions contained in the 26th section of the 22d and 23d of Victoria, cap. 21, entitled 'An act to regulate the office of Queen's remembrancer, and to amend the practice and procedure on the revenue side of the court of exchequer,'

"It is ordered that the following provisions of the common law procedure act, 1854, be extended, applied, and adapted to the revenue side of the court of exchequer:

"1. In all cases of rules to enter a verdict or nonsuit upon a point reserved at the trial, if the rule to show cause be refused or granted, and then discharged or made absolute, the party decided against may appeal.

"2. In all cases of motions for a new trial upon the ground that the judge

has not ruled according to law, if the rule to show cause be refused, or, if granted, be then discharged or made absolute, the party decided against may appeal, providing one of the judges dissent from the rule being refused, or when granted being discharged or made absolute, as the case may be, or provided the court in its discretion may think fit that an appeal should be allowed, provided that where the application for a new trial is upon matter of discretion only, as on the ground that the verdict was against the weight of evidence, no such appeal be disallowed.

"The court of error, the exchequer chamber, and the House of Lords shall be courts of appeal for this purpose.

"4. No appeal shall be allowed unless notice thereof be given in writing to the opposite party or his attorney and the Queen's remembrancer, within four days after the decision complained of, and such further time as may be allowed by the court or a judge.

"5. The appeal hereinbefore mentioned shall be upon a case to be stated by the parties, (and in case of difference to be settled by the court or a judge of the court appealed from,) in which case shall be set forth so much of the pleadings, evidence, and the ruling or judgment objected to as may be necessary to raise the question for the decision of the court of appeal.

"6. When the appeal is from the refusal of the court below to grant a rule to show cause, and the court of appeal grant such rule, such rule shall be argued and disposed of in the court of appeal.

"7. The court of appeal shall give such judgment as ought to have been given in the court below, and all such further proceedings may be taken thereupon as if the judgment had been given by the court in which the record originated.

"8. The court of appeal shall have power to adjudge payment of costs, and to order restitution, and they shall have the same powers as the court of error in respect of awarding process and otherwise.

"9. Upon an award of a trial *de novo* by the court, or by the court of error, upon matter appearing upon record, error may at once be brought, and if the judgment in such or any other case be affirmed in error, it shall be lawful for the court of error to adjudge costs to the defendant in error.

"10. When a new trial is granted on the ground that the verdict was against evidence, the costs of the first trial shall abide the event unless the court shall otherwise order.

"11. Upon motions founded upon affidavits, it shall be lawful for either party, with leave of the court or a judge, to make affidavits, in answer to the affidavits of the opposite party, upon any new matter arising out of such affidavits, subject to all such rules as shall hereafter be made respecting such affidavits.

"12. Notice of appeal shall be a stay of execution, provided that within eight days after the decision complained of, or before execution delivered to the sheriff, bail to pay the sum recovered and costs, or to pay costs when adjudged, be given in like manner, and to the same amount, as bail in error is required to be given under the rules of this court made on the 22d day of June, 1860, or as near thereto as may be applicable, provided such bail shall not be necessary to stay execution in cases where the appellant is the crown, the attorney general on behalf of the crown, or the Prince of Wales or the Duke of Cornwall for the time being."

"The foregoing rules shall come into operation and take effect forthwith, and apply to every cause, matter, and proceeding now pending."

The court of exchequer dismissed the application for a new trial, and, under the power of appeal assumed to be given by these rules, the attorney general took the case upon appeal before the court of exchequer chamber, who, however, a majority of four to three, rejected the appeal, on the ground that the barons of the exchequer had not the power to make such rules under the authority of the Queen's remembrancer's act. The present appeal was then brought to reverse the judgment of the exchequer chamber.

The attorney general, the solicitor general, the Queen's advocate, Mr. Locke, and Mr. Thomas Jones appeared on behalf of the crown; and Sir H. Cairns, Mr. Mellish, Mr. Karlake, and Mr. Kemplay represented the respondents.

The case came before the House of Lords on the 11th, the 14th, and the 15th of last month, when, after hearing the very elaborate and learned arguments of the counsel on either side, their lordships took time to consider their judgments, which were now delivered as follows:

THE LORD CHANCELLOR. My lords, this appeal depends on the question whether the rules made by the court of exchequer on the 4th of November, 1863, are warranted by the power contained in the 26th section of the statute of the 22d and 23d year of the Queen, commonly called the Queen's remembrancer's act. The second common law procedure act, which passed in the year 1854, contains many important enactments with reference to the jurisdiction of the superior courts of common law, and some of the most important are the provisions that create new rights of appeal. In jury trials at common law grave questions frequently arise, and are decided on motions for a new trial, or on rules to enter a verdict or a nonsuit; but from the decisions of the court so given there was not before the act of 1854 any right of appeal. The creation of a new right of appeal is plainly an act which requires legislative authority, and by which the court from which the appeal is given, and the court to which it is given, must both be bound, and that must be the act of some higher power. It is not competent to either tribunal, or to both collectively, to create any such right. Suppose the legislature to have given to either tribunal—to the court of the first instance, and to the court of error or appeal respectively—the fullest power of regulating its own practice or procedure, such power would not avail for the creation of a new right of appeal, which is in effect a limitation of the jurisdiction of one court, and an extension of the jurisdiction of another. A power to regulate the practice of a court does not involve or imply any power to alter the extent or nature of its jurisdiction. Accordingly it was necessary in the act of 1854 not only to give new rights of appeal, but to define and bind certain courts to entertain the appeals so given, and this is done by the 36th section of the act, which declares that the court of error, the exchequer chamber, and the House of Lords shall be courts of appeal for the purposes of the act. The common law procedure act of 1854 was, like the act of 1852, limited to the superior courts of common law, and from the manner in which the act was expressed these words intentionally excluded that court which is called the revenue side of the court of exchequer. It required, therefore, another exercise of legislative authority to make the special provisions of the act of 1854, which had created new rights of appeal in the other courts, applicable to suits as between the crown and the subject in the court on the revenue side of the exchequer. In making the orders now in question the barons of the court of exchequer have assumed that a discretionary power to exercise this legislative authority or not, and thereby to confer or to withhold this important benefit of new rights of appeal, has been given to them by the 26th section of the act of 1859. If the legislature has done this, it has done a thing which is very irregular, and which antecedently would seem to be very improbable. It is not reasonable to suppose that in matters affecting the taxation of the subject the legislature would abdicate its own functions and delegate to the barons of the exchequer the power of determining at their pleasure whether in certain cases there should or should not be a right of appeal as between the subject and the crown. This improbability is much increased when attention is directed to the particular provisions of the statute in question—namely, the Queen's remembrancer's act. The 10th section embodies and applies (with some slight differences) to the revenue side of the court the provisions as to error and appeal contained in the 46th section of the common law procedure act of 1852, and 23d section of the act of 1854. New rights of appeal are created and regulated by the 12th, 13th, 14th, and

15th sections. By the 16th section special provisions as to the examination and attendance of witnesses, together with the provisions contained in the 46th, 47th, 48th, and 49th sections of the act of 1854, are expressly extended to suits and proceedings on the revenue side of the court of exchequer, and in the 18th and 19th sections are contained express enactments regulating proceedings in error on the revenue side of the court of exchequer, and embodying the 146th and 147th sections of the act of 1852, and by the 20th section the power of appealing to a court of error by means of a bill of exceptions is for the first time created on the revenue side of the court. Suits, therefore, between the crown and the subject on the revenue side of the exchequer are by these express enactments put upon the same footing, with respect to proceedings in error, as suits between subject and subject in the courts of common law, with the exception only of the right of appeal from interlocutory orders given by the 34th and 35th sections of the act of 1854. It is difficult to resist the impression that these last-mentioned rights of appeal were intentionally omitted by the legislature, as not being expedient in revenue cases; but it is much more difficult to accept the proposition of the crown, that these rights were left by the legislature, to be conferred or not at the pleasure of the chief baron and two or more barons of the court of exchequer. These improbabilities and difficulties must, of course, yield to any enactment expressly declaring that such is the intention of the legislature, but they are of sufficient weight to render it necessary that the language of such alleged enactment shall be clear and unequivocal, and not admit of any other reasonable construction. With these observations we come to the construction of the 26th section of the statute. It contains two distinct powers given to the lord chief baron and two or more barons of the court. By the first power they are authorized to make rules and orders as to the process, practice, and mode of pleading on the revenue side of the court. Here the word "practice" is used in its common and ordinary sense as denoting the rules that make or guide the *cursum curiæ*, and regulate the proceedings in a cause within the walls or limits of the court itself. Under this power any rule might be laid down by the barons for the guidance of their own proceedings that did not require express legislative sanction. By the second power conferred by the 26th section the lord chief baron and two other barons are authorized to extend, apply, and adapt to the revenue side any of the provisions of the common law procedure acts of 1852 and 1854, and any of the rules of pleading and practice on the plea side as may seem to them expedient—that is, for the purpose of making the process, practice, and mode of pleading on the revenue side as nearly as may be uniform with the process, practice, and mode of pleading on the plea side. First, it is admitted on all hands, and, if not, it is clear, that the provisions in the acts of 1852 and 1854, which may be thus extended, applied, and adapted, must be provisions relating to process, practice, and mode of pleading. Uniformity of process, practice, and mode of pleading on both sides of the court is the object of the power and defines its extent. Secondly, it is very difficult to give the words "process, practice, and mode of pleading" in this second power a different meaning or extent of signification from that which they bear in the first power given by the prior part of the section. Taking, then, the word "practice" as equivalent to the *cursum curiæ* or regulation of proceedings within the court itself; the question is when the 34th, 35th, and 36th sections of the act of 1854 can with any propriety of language be denominated provisions or rules respecting process, practice, and mode of pleading.

This is a question of verbal nicety, depending on nice shades of meaning in a word. The 34th, 35th, and 36th sections of the act of 1854 create, as I have said, new rights of appeal. An appeal is the right of entering a superior court and invoking its aid and interposition to redress the error of the court below. It seems absurd to denominate this paramount right part of the practice of the inferior tribunal. The mode of proceeding may be regulated partly by the

practice of the inferior and partly by the practice of the superior tribunal, but the appeal itself is wholly independent of these rules of practice. The right to bring an action is very distinct from the regulations that apply to the action when brought, and which constitute the practice of the court in which it is instituted. So the 34th and 35th sections of the act of 1854, which create new rights of appeal, and the 36th section, which defines and binds certain courts to receive and determine such appeals, cannot with any accuracy or propriety be termed provisions which relate to process, practice, or mode of pleading, either in the court appealed from or that to which the appeal is to be made. They are enactments creating new relations between certain courts in cases which are defined, and they are as distinct from rules of practice as international law is distinct from municipal. On reading the rules in question which profess to have been made under the authority of the 20th section, no one using the common language of lawyers would call them provisions relating to the practice of the court of exchequer on the revenue side. For the third rule is that the court of error, the exchequer chamber, and the House of Lords shall be courts of appeal for this purpose—that is, for the purpose of the appeal given by the first and second rules; and the sixth, seventh, eighth, and ninth rules prescribe the duty and define the authority of these courts of appeal. These rules are so many legislative enactments purporting to create a new jurisdiction in the court of exchequer chamber and House of Lords, and prescribing the mode in which such new jurisdiction shall be exercised. It is simply an incorrect use of language to call such enactments provisions respecting the process, practice, or mode of pleading in the court of exchequer; but unless they can be properly and strictly so denominated, there is not, in my opinion, any authority to make such rules conferred by the 26th section of the Queen's remembrancer's act. The principal argument of the attorney general was, that the words "process, practice, and mode of pleading" were equivalent to the word "procedure," and that the word "procedure" denotes the whole course of a cause from its commencement in the court of first instance until its final adjudication in the ultimate court of appeal, and he then contended that a provision giving a new right of appeal may be properly termed a provision relating to the procedure of a cause. I cannot accept either of these two positions. The words "process, practice, and mode of pleading" are not used in the abstract, but always with reference to some court or courts, and so used they have a well-understood and definite meaning. They are used in the 26th section in connexion with the plea side and the revenue side of the court of exchequer, and properly denote the proceedings in a cause on either side within the walls of that tribunal. They have no extra-territorial operation, but if they received the larger construction of the attorney general, it would follow that under the 26th section the barons of the exchequer would have the power to make rules as to procedure in the House of Lords, which would be absurd. It was also urged by the attorney general that the proceeding in error is now made a step in the cause—that is, a step in the procedure—and if procedure be, as he contends, equivalent to process, practice, and mode of pleading, it is a step within the meaning of those words. The fallacy of this ingenious verbal argument lies, as I have already observed, in taking the word "procedure" in the abstract, and substituting it for "process, practice, and mode of pleading," also taken abstractedly—that is, taken in a sense and manner in which they are never found in the acts in question. The words "step in the cause" are used, as is well known, for the purpose of denoting that in future it should not be necessary to sue out a new writ for the purpose of entering a court of error. But it has been further contended that inasmuch as by the 20th section of the Queen's remembrancer's act the proceeding by bill of exceptions is extended to the revenue side, by which any error or omission in the ruling of a judge at the trial may be brought before a court of error, the giving of an appeal from the judgment of the court is *bono* on the same question of

error in the ruling is no more than a regulation of form, and not the introduction of a new right of appeal. But the observation is not correct in point of fact, for the bill of exceptions is to the ruling of the judge at the trial, whereas the appeal created by the 35th section of the act of 1854 is from a different judgment, viz: the decisions of the court *in banco*. But the answer to the whole of this argument is, that although the bill of exceptions was a well-known proceeding in the courts except on the revenue side of the exchequer anterior to the year 1854, yet the legislature deemed it necessary to create the new rights of appeal which are given by the 34th and 35th sections of the act of 1854 by express enactments for the purpose. This argument, therefore, by bringing into immediate contrast the express mention of the proceeding by bill of exceptions with the total silence of the legislature as to the appeals given by the 34th and 35th sections of the act of 1854, serves to confirm the conclusion that the legislature deliberately abstained from extending to suits on the revenue side the provisions contained in those sections. It was strongly contended by the respondents that even if the barons of the exchequer had power to make the rules in question, they had no power to make them apply to pending proceedings, and that the attempt to do so was unjust. This argument is not, in my opinion, well founded. Many of the enactments contained in the Queen's remembrancer's act are so worded as to be applicable at once to pending proceedings. If, therefore, these rules are warranted by that statute, there can be no injustice in making them apply to pending proceedings so long as they apply equally and impartially to both sides. Still it is a subject of deep regret that any rules should have been made expressly with a view to the determination of a particular cause. Four years have elapsed since the passing of the Queen's remembrancer's act, and the necessity of these rules had never occurred to the barons of the court of exchequer. On the eve of the argument of the motion for a new trial in this important case the rules in question were made without the time necessary for due deliberation. The result is that the efforts made to settle a question of the gravest importance and most essential for the guidance of the government of the country, and regarded with great expectation, have been rendered abortive, or rather, to speak more correctly, the *mons parturienti* of this great cause, raised with so much labor and expense, will produce nothing but the ridiculous issue of some discordant opinions of the meaning of the word "practice." I, therefore, have to move your lordships that the appeal of the crown be dismissed with costs.

LORD CRANWORTH. On the argument of this case at your lordships' bar two questions were raised: First. Had the court of exchequer the power to make the rules in question? Secondly. If they had, could they make them so as to operate on a defendant who had already obtained a verdict? The first question depends entirely on the 26th section of the 22d and 23d Victoria, cap. 21. That section contains two members. I do not consider it necessary to discuss what rights the court had under the first. By the second part of the clause the chief baron and two or more barons are authorized from time to time by any rule or order to extend any of the provisions of the acts of 1852 and 1854 to the revenue side of the court, as might seem to them expedient, for making the practice on the revenue side of the court as nearly as might be uniform with the practice on the plea side. By the second of the rules of the 4th of November, 1854, it was provided (among other things) that in all cases of motions for a new trial upon the ground of misdirection by the judge at the trial, if a rule to show cause be granted, but afterwards discharged, then the party decided against may appeal if there is a difference of opinion among the judges, or if the court gives leave to appeal. There is a provision in the act of 1854, section 35, giving to the suitor this power of appeal in such motions on the plea side of the court. Therefore, looking only to the words of the statute, the rule was authorized, if it would tend to make the practice on the revenue side of the court more nearly uniform with that on the plea side. Did, then, the alteration thus introduced by

the second rule tend to make more uniform the practice on the two sides of the court? I cannot doubt that it did. If by the word "practice," as used in the statute, we are to understand the whole course of procedure from the commencement of a suit to its close by final judgment and execution, there can be no doubt that under the rule in question the practice on the revenue side was made more uniform with that on the plea side. In fact, the practice so understood was made the same on both sides of the court. I strongly incline to think that, in construing a remedial act like that now under consideration, we may fairly adopt this liberal interpretation of the word practice. When the legislature sanctions the doing of certain acts for the purpose of making the practice on the revenue side of the court more uniform with that on the plea side, it is not unreasonable to understand it as meaning the practice in revenue causes—i. e., the practice in every stage of their progress, from the commencement to the end. But, in my view of the case, it is not necessary that I should rely on this more extended sense of the word practice, for, even supposing the practice referred to in the statute to be confined to that in the court of exchequer itself, and to have no reference to the mode in which the cause is to be dealt with after it has left that court, still I think the rule in question tended to make more uniform the practice on the two sides of the court. I must here remark that the power conferred by the 26th section is not a power, as was assumed at times in the argument, to introduce clauses relating to process, practice, or pleading, but a power to introduce any sections which may tend to make the process, practice, and pleading on the two sides of the court uniform. On the plea side a suitor has two modes of bringing any misdirection of the judge at the trial under the review of the courts of error. He may tender a bill of exceptions at the trial, before the jury have delivered their verdict, and then, by proceeding in error, bring the question as to the ruling of the judge before the successive courts of error; or, after verdict, he may move the court of exchequer for a new trial, and if dissatisfied with the judgment there given he may appeal. Whichever course is taken, the question whether the judge has ruled according to law may be subjected to the review of the exchequer chamber, and afterwards of the House of Lords. On the revenue side of the court only one of these courses was, before the promulgation of the rules, open either to the crown or to the defendant. Either party might tender a bill of exceptions, and so bring the matter before the courts of error. But if, instead of taking that course, he preferred to move the court of exchequer after verdict for a new trial, there was then no mode of questioning, in the courts of error, the ruling of the judge at the trial. The effect of the new rules of court is to enable the party, whether the crown or a subject, dissatisfied with the judgment of the court of exchequer on such a motion, to appeal to the courts of error, thus making the mode of bringing before the courts of error the question whether the ruling of the judge at the trial was correct, on the two sides of the court, uniform. This may surely be treated as an alteration of practice in the court itself. There are two passages to the courts of error, by either of which a suitor on the plea side may bring under the review of those courts an alleged misdirection of the judge at the trial—the one notoriously inconvenient and hazardous, the other easy and safe. Before the promulgation of the rules a suitor on the revenue side could only proceed by the former course. Under the rule in question the latter course is opened to him as the suitor on the plea side. I think this must be deemed to make the practice more uniform on the two sides of the court itself. If I am wrong in coming to this conclusion, then I should not think that the rule in question was warranted, for, as I construe the statute, there was no power given to the judges of the court to extend any of the provisions of the two former acts to the revenue side of the court, unless by so doing they would make the process, practice, or mode of pleading on the two sides of the court more nearly uniform. The construction of the 26th section

of the statute seems to me to require that the words at the end of it, which indicate the purpose for which the rules might be made, should be read as applying as well to the power of extending the provisions of the former acts to the revenue side of the court as to the power of so extending the rules of pleading and practice on the plea side of the court. In the further observations, therefore, which I am about to make, I must assume that the rules in question did tend to make the practice on the two sides of the court more nearly uniform. But even supposing that to be so, still it was said there are considerations which ought to satisfy your Lordships that no power of making such rules was intended to be conferred on the judges.

First, because it is absurd to suppose that it could have been intended to delegate to the judges of a court the power of saying that any decision of theirs should be capable of being brought for review before the exchequer chamber, and ultimately to this house; and secondly, because there are clauses in the act itself inconsistent with the hypothesis that any such power was, in fact, conferred. On the first ground I am far from disputing that cases may be suggested in which a strict adherence to the language of a statute, whereby powers are conferred on a court or other body, would lead to consequences so absurd or inconvenient as to make it necessary to understand the legislature as having used the words in question not in their ordinary sense. But I cannot discover any such necessity here. Suppose the clause authorizing the application of any of the provisions of the former acts to the revenue side of the court had in terms included those provisions which related to appeals, what would there have been absurd or inconvenient in such an enactment? It might have been unusual, but that would have been all; and I know of no principle which justifies us in departing from the ordinary interpretation of words merely because they confer unusual powers. I incline to think that I should have taken this view of the case even if there had been no power of bringing under review the ruling of the judge, but here the very question as to which a right of appeal to the courts of error is given by the rule now under consideration might have been brought by bill of exceptions under review of the same courts. Consider the question—first, when the decision of the court of exchequer is conformable to the ruling of the judge, and where, therefore, the application for a new trial is refused. In every such case the right of appeal is merely a right, in the party complaining of misdirection, to bring by a new and less difficult mode before the courts of error the same question which he might have brought before them by a more cumbersome and complicated mode of proceeding—*i. e.*, a right to proceed by appeal on a case stated so as to raise the matter in dispute, instead of by bill of exceptions. The rule in such a case is merely the extending to the revenue side of the court of a clause or clauses of the act of 1854 likely to make the practice on the two sides of the court more uniform. It gives to the suitors in causes on the revenue side of the court the same facilities of getting out of the court below and reaching the courts of error which are possessed by the suitors on the plea side. It does not form substantially any new right of appeal, for, looking to substance, not to form, the party appealing is only doing what he might have done by bill of exceptions. The case, though equally clear, is not so simple where the court of exchequer decides against the ruling of the judge, and so awards a new trial. The party dissatisfied with that decision would, independently of the rules, be compelled to go down to a new trial. The judge presiding at that trial would, as a matter of course, state the law to be as it had been settled by the court. The party dissatisfied with that decision might then object to the law so laid down, and call on the judge to state the law to be as it had been expounded by the judge at the former trial, and on this being refused, as it must be refused, he might tender a bill of exceptions, and so bring the question before the courts of error. The effect of the rule in question is to enable him to bring before the

court of error by appeal the same question which he might have brought before them by bill of exceptions, after incurring the useless and expensive delay of a new trial. Whether, therefore, the court of exchequer may have decided against the motion for a new trial or in favor of it, the effect of the rule is to enable the suitor on the revenue side of the court, who considers himself aggrieved by the ruling of the judge at the trial, to reach the court of error by the same easy course which is open to the suitor on the plea side. I am aware that the courts of error on an appeal have larger powers than they can exercise on a bill of exceptions. On a bill of exceptions they have only to say whether there has or has not been misdirection. If there has, the duty of the court of error is simply to award a *venire de novo*; if there has not, to refuse it. But on an appeal to the court of error the court is bound to give such judgment as the court below ought to have given. Now, on a motion for a new trial on the ground of misdirection, it is by no means necessarily the duty of the court to grant a new trial even where there has been misdirection. The court may see clearly that the jury could not have been, and were not, misled, and then a new trial may be justly refused; or the court may see that it ought only to be granted on terms—as, for instance, if a material witness has died since the trial, the court may refuse a new trial unless the complaining party consents to allow the evidence of the deceased witness on the former to be read on the new trial; and many other instances might be adduced. All these circumstances are to be considered by the court of error on an appeal, which would be out of place on a bill of exceptions. But it surely cannot be an argument against the power to make the rule now complained of, that it enables more substantial justice to be done when the case is before the court of error than could have been done independently of the rule. On these grounds I have come to the conclusion that even if the power to grant a right to appeal, where no means previously existed of bringing the matter complained of before the courts of error, would be so unusual and strange that language apparently conferring it must be construed otherwise than according to its ordinary meaning, still here there not only is no such anomaly, but the power conferred is, in fact, only a power enabling the court to authorize its suitors to obtain the judgment of the courts of error more simply, more expeditiously, more cheaply, and more effectually than they could have done under a more complicated course of proceeding.

It was, however, argued for the respondents that there is evidence, deducible from other clauses of the statute, showing that it was not intended to confer on the judges of the court of exchequer the power to make such rules as those now under consideration. This argument rested mainly on the fact that a right of tendering a bill of exceptions is given, but without any power of appeal; and, secondly, that a right of appeal is given by different sections of the act from the decision of the court of exchequer in some other cases; and the inference, it was said, is that where a right of appeal was intended it was given expressly, and so that it would be unreasonable to suppose that the legislature meant to delegate to the court the right of declaring whether there should or should not be a right of appeal in cases where no such right is conferred by the act. In order to estimate the force of this argument we must assume that, but for the other clauses of the act relied on, there was authority given by the 26th section to make the rules in question. If that is so, then the question is whether the other sections relied on make it plain that the power conferred by the 26th section did not extend to cases to which, but for those sections, it would have been applicable; in other words, that the 26th section must be read as if there were in it a proviso declaring that nothing therein contained should be deemed to enable the chief baron and two barons to make any rule empowering any suitor on the revenue side to bring before the courts of error any question as to (*inter alia*) the ruling of a judge at *nisi prius* otherwise than by a bill of exceptions. Unless the effect of the clauses relied on can be carried to that

extent they do not sustain the argument of the respondents. I cannot attribute to them any such effect. The clause giving the right to tender a bill of exceptions was clearly necessary, for there could have been no right under the 26th section to extend to the revenue side of the court the provisions of the statute of Westminster. So as to the right of appeal given in cases of summary proceedings under the legacy duty and succession acts; they were wholly out of the purview of the common law procedure acts. The only clause really raising any question on this part of the argument is the 10th, which is taken partly from the act of 1852, and partly from that of 1854. Mr. Justice Willes considers that the general powers conferred by the 26th section of the act of the 22d and 23d of Victoria, cap. 21, would not extend to the case contemplated by the 10th section of the same act, or, at all events, that it is doubtful whether they would, and he gives his reasons for that opinion. I am far from saying that he is wrong in the view which he has thus taken. But even if he is, all that can be said is that there is one case which has been specially provided for by the legislature, for which, if it had not been provided for, the judges might, under their general powers, have made adequate provision. I do not feel called on to find reasons why this distinction was made. Perhaps it was thought so important to enable parties to obtain the judgment of the court without the expense of a suit as to make it expedient to introduce this 10th section, formed by uniting together the 46th section of the act of 1852 and the 32d section of that of 1854. Be that as it may, I cannot attribute to the circumstance that express provision is made for giving an appeal in one particular case so much weight as to collect from it that the words of the 26th section, which purport to give a general power, embracing that case, could not have been meant to have the operation which they would have had if the special enactment had not existed. On these grounds I have come to the conclusion that the rule giving a right of appeal from a decision of the court, whether granting or refusing a new trial on the ground of misdirection, was warranted by the 26th section, as being a rule tending to make the practice on the two sides of the court uniform; that there is no absurdity or inconvenience in construing the words of the act according to their literal import; that, so construed, they conferred on the judges of the court of exchequer the power to make the rule authorizing an appeal when the court refused or granted a new trial applied for on the ground of misdirection; and that there is nothing in the other clauses of the act showing that no such power was intended to be given. If your lordships decide in conformity with the lord chancellor on the question of the construction of the 26th section, the second point made at the bar as to the retrospective effect of the rules does not arise. But should it become necessary to decide it, I think the answer given at the bar is satisfactory. The authorities show that, when new arrangements come into force for regulating procedure, they operate on pending as well as future suits. Where this principle has been acted on, as it has often been acted on, with reference to costs, I cannot quite reconcile my mind to what has been done. Here, however, the *nova constitutio* was merely a regulation calculated, or supposed to be calculated, to make more sure the ultimate attainment of justice. It operated equally on both parties, and, according to all the authorities, affected existing as well as future suits. In this branch of the question the right to make the rules prospectively must be assumed. And it is considered that when a suitor comes before the court he does so merely to obtain his right, whatever that right may be. He is not allowed to complain of any rules or orders lawfully made by the court for the better attainment of justice, merely because they have been made after he has placed himself within its jurisdiction. On these grounds I think that the court of exchequer chamber ought to have entertained jurisdiction.

Lord ST. LEONARDS, who was indistinctly heard, said he had formed a decided opinion on the case. Looking to the construction of the Queen's remem-

brancer's act, standing alone, it was clear that the intention and object of that act were to simplify the proceedings on the revenue side of the court of exchequer. After carefully examining the different sections he arrived at the conclusion that when the act meant to give an appeal it clearly and expressly said so. The power of appeal given to the revenue side of the court was to be by way of bill of exceptions. In 1860 the barons of the exchequer made rules of considerable extent for the better regulation of the process, practice, and mode of pleading of the court, and they made further rules with that object in 1861, but no attempt was made to frame rules governing the appeal which was now under consideration. He thought that the 20th section of the act was properly construed and acted upon by the barons until the present case arose, when the crown, having lost the ordinary means of appeal by bill of exceptions, moved for a new trial. There being in that form of procedure no appeal from the decision of the court of exchequer, the barons framed on the instant new rules to enable an appeal to be brought, and accomplished that purpose, if the order they made could be held to be authorized by the provisions of the 26th section. He was distinctly of opinion that no right of appeal could be given except by express words, and the right of appeal could not be said to be so given by such words in the 26th section as "process, practice, and mode of pleading," for on those words the right could only be founded by implication. The rules hastily made by the court of exchequer would operate with all the force of an act of Parliament, and the legislature certainly never intended that such rules should be made *pendente lite*. No one could doubt that the barons of the exchequer acted with the purest intentions, but such an *ex post facto* power as they had exercised was never intended to be conferred upon them by the legislature. It had been laid down by Parliament that litigants on the revenue side of the court of exchequer should proceed to correct errors by bills of exceptions, while the barons of that court laid down that the remedy should be by an appeal of a totally different kind. For these reasons he was clearly of opinion that the present appeal should not be allowed.

LORD WENSLEYDALE. The question which your lordships have now to decide is very important. I regret to find that the conclusion to which some of my noble and learned friends have arrived differs from mine, and, from the sincere respect I have for their opinion, I cannot feel much confidence in my own. But, after having given every consideration in my power to the question, I feel bound to advise your lordships to adopt the course which I think is just, and to reverse the decision of the court of exchequer chamber. The question, though important, really lies in the narrowest compass, and is only as to the meaning of the 26th section of the statute 21 and 22 Vict., cap. 21, "An act to regulate the office of Queen's remembrancer," and which makes it lawful for the lord chief baron and two or more barons of the court of exchequer, from time to time, to make rules and orders, and also from time to time, by any such rule or order, to extend, apply, or adapt any of the provisions of the common law procedure act, 1852, and the common law procedure act, 1854, and any of the rules and pleadings and practice on the plea side of the said court, to the revenue side of the said court, as may seem to them expedient, for making the process, practice, and mode of pleading on the revenue side of the said court as nearly as may be uniform with the process, practice, and mode of pleading on the plea side of the said court. To this section we must, I am clearly of opinion, apply the ordinary rule of construction applicable to all written instruments—what is the true meaning of the words used, according to their usual acceptation and their ordinary grammatical meaning—and, applying that rule, I do not think there is much doubt what the meaning is. Does it authorize the court of exchequer to grant an appeal to the court of exchequer chamber and the House of Lords against the decision of the court of exchequer, on the revenue side, on a rule for a new trial on the ground of misdirection? But, on perusing the very able opinions of some of the

judges of the Court of Queen's Bench, delivered in the exchequer chamber, I perceive in them a suggestion of a rule of law that such power of appeal was so unusual, that it required "a clear, unambiguous expression" of the intention of the legislature in order to support it; that the power must be "distinctly and unequivocally given," and that supposed rule seems to me to have had great influence in forming the opinions of these judges of the Queen's Bench. Such a rule of construction appeared to me to be entirely new, as far as my experience went, and I inquired from the learned counsel in the course of the argument whether any authority could be found for such a principle of construction. I was referred by Mr. Mellish to some cases on the subject of appeals from the decisions of magistrates, collected in Dickinson, Sess. Cases, 6th edition, 626. These, when closely examined, appear to amount to no more than this—that an appeal cannot be given "by implication;" that is, in truth, no more than that, however much you may be satisfied that the legislature must have intended to have given it, it is not enough unless there are words to give it. I have often had occasion to mention, in the construction of written instruments, how important it was, in every question of intention, to distinguish between the meaning of the words used and what the framer may be supposed to have intended, and I have found that the rule has not always been attended to. In my opinion there is no legal ground for such a principle of construction as seems to have been acted upon by some of the judges.

The true question for us to decide is, what is the ordinary and grammatical meaning of the words used in this section? Do these words give the chief baron and two barons the power of extending the right of appealing against the decision of a rule to show cause for a new trial on the ground of misdirection to the court of exchequer chamber, such a power being clearly given to the common law courts by the act of 1854? The first part of the 26th section gives the judges power to make new rules and orders on the revenue side of the court. It is not contended that this would authorize a new rule to allow an appeal. The words of the second part, if taken by themselves, would be clearly enough to allow all the provisions of the acts of 1852 and 1854. Three questions then arise: 1st. Is this so unreasonable that the general power is not to be so construed? For, no doubt, if the natural and ordinary construction of the words used lead to an absurd or unreasonable consequence, they may be moderated, or qualified, or explained. 2d. Does the circumstance that other provisions of the statute, expressly enacting that certain clauses of the common law procedure act, 1853, and the common law procedure act, 1854, should be in force, and extend to the revenue side of the exchequer, afford a proof that none others were intended to be extended, applied, or adapted? And 3d. Does the conclusion of the 26th section, explaining that the object of the enactment is that the process, practice, and mode of pleading of the revenue side of the court of exchequer should be made uniform with the process, practice, and mode of pleading on the plea side of the court, make any difference? Is the word "practice" to be understood in the larger sense of the whole conduct of the procedure in the suit in the court of exchequer, from the beginning of the suit to the ultimate judgment and execution, or in the more limited sense of common and ordinary practice? These several points must be disposed of: 1. It seems to me that it is impossible to say that the introduction of a power of appeal against a decision upon a rule *nisi* for a new trial, for misdirection in point of law, is an unreasonable power; on the contrary, it is a most satisfactory one. It gets rid of the difficulties and inconveniences of a bill of exceptions, which all practitioners know to be extremely troublesome and embarrassing in its preparation and settlement, and substitutes a much more simple course for inquiry into the propriety of the judge's ruling. I think it is wholly impossible to contend with success that the substitution of this mode of proceeding is not a very reasonable one, nor is there anything in the least unreasonable in delegating this power to the judges of the court itself. Mr. Justice Willes, in

his very able judgment, has given many instances of such delegations by the legislature to others. The act of the 3d and 4th of William IV, cap. 42, the first of a series of acts by which the law has been greatly reformed and improved, gives the whole authority to make most important changes, subject only to the condition of being laid before Parliament, to the judges. The common law procedure act, 1852, gives a somewhat similar power to the judges. So the common law procedure act, 1854. These powers were given to a quorum of eight judges, the chiefs of the court being three. In this case it is the chief of the exchequer and two judges who have the power delegated to them; but the delegation being perfectly reasonable, there surely is not the shadow of an objection that a quorum of the judges of the court, who alone administer the law of the exchequer, should have the power to make the allowed alterations in it. I think, therefore, that the power of adopting the provisions as to appeal is quite valid. 2. Does the enactment in express terms in the statute 22d and 23d of Victoria, cap. 21, of certain provisions as applicable to the revenue side of the court of exchequer, afford an inference that they were all that the legislature meant to be so applied, and operate as a sort of legislative declaration that no more should be so applied? I think this circumstance affords no such inference. Clearly, not those which are independent of the power to appeal, or bring a writ of error. All that can be implied is that those powers were all that the legislature then thought expedient; but they give to the judges the power of adding, from time to time, others which they might judge proper. Had the legislature thought it right to allow no other, nothing would have been more easy than to have said so; we cannot imply it. These sections are the 9th, 10th, 12th, 15th, and 20th. The 9th refers to the power of amendment only, and is given to its full extent. It is of the most frequent application, and nothing is more reasonable than that the legislature should, at all events, have enacted that this useful provision should be made. Mr. Justice Willes has assigned most satisfactory reasons why the new sections giving error or appeal were necessarily inserted. It is from those only that any inference can be drawn that the power of error and appeal were to go no further. The 12th section, giving appeal from the assessment of the commissioners of the inland revenue, was absolutely necessary, because the common-law procedure acts, 1852 and 1854, could not have given it. So the 15th section, giving error or a writ of summons on the succession duty act, or for legacy duties. So the 20th, for a bill of exceptions in a common case, was not given by the statute 1852, but only in the newly constituted multifarious case of ejectment. It was given by the statute Westminster 2d. As to the section 10 there is great doubt also, to say the least, whether it was not necessary, for it does not give precisely the same powers to state a case as the 42d and 46th sections of the statute 1852; the first of which gave only a qualified power to the judge on being satisfied that the parties have a *bona fide* interest in the question, which is not required in the section 10. It would not have been sufficient, therefore, to leave those 42d and 46th sections unaltered, and section 10 effected that object. As the attorney general in all revenue cases is a necessary party, he is included in the term "parties," as pointed out by Mr. Justice Willes's judgment, and his consent to a case would supersede the judgment of a judge as to the *bona fide* interests in the question. This, in my mind, is quite satisfactory; but even if it leaves it a matter of doubt whether this power could have been given by the acts 1852 and 1854, it was expedient to make it perfectly clear, and leave no question as to the right of the attorney general, on behalf of the crown, to the claim to have such a case stated, with the consent of the other party to the cause, and the simple order of a judge. On the whole, it seems to me clear that the principle of *expressio unius est exclusio alterius* cannot be held to apply. I have come, therefore, after much consideration, to the conclusion that the second part of the 26th section authorizes the exchequer judges to make a regulation giving an appeal in the case of a discharge of a rule nisi for a new trial.

The third question is, whether this power is qualified so as to confine it entirely to matters of the ordinary practice of the court in a limited sense. The words of the second part go much beyond that. They authorize the chief baron and barons from time to time, by any rule or order, to extend, apply, or adapt any of the provisions of the common law procedure act, 1852, and the common law procedure act, 1854. This is quite independent of the clause authorizing the application of the rules of pleading and practice; but the general object is to make the process, practice, and mode of pleading on the revenue side of the courts as nearly as may be uniform with the process, practice, and mode of pleading on the plea side of the court. Does that provision limit and control the power to adopt the provision of the acts 1852, 1854, and apply to common and ordinary practice in the limited sense only? Many of those provisions in the two acts go greatly beyond "practice," in that sense, and process and pleading also. Can it be supposed the legislature meant to undo, by the use of that term in the concluding part, what they had given before? I cannot but think that to make the whole clause consistent the word "practice" must be construed in the larger sense given to it in the judgment of the judges of the court of common pleas, and explained more particularly by Mr. Justice Willes. It seems to be used in the same sense as, it is in the preamble of the statute, 1852, which is of much more importance than the title. It is for rendering the process, practice, and mode of pleading more simple and speedy. And in the preamble of this act, 22d and 23d Victoria, cap. 21, it is, *inter alia*, to make provision in relation to the procedure on the revenue side of the court. Nor can I see any ground to confine the enactments to one department of the revenue side of the court, as contended by Mr. Mellish. The words apply equally to all pleadings and proceedings in revenue. The abolition of the writ of error on the revenue side by section 19, (giving the barons a discretion as to bail, which would not, therefore, necessarily affect the attorney general,) and by the act of 1852, section 148, which enacts that a writ of error shall not be necessary or used in the proceeding to error, but shall be a step in the cause, seems to me to put the court from which the record was before removed by the writ of the Queen entirely on a different footing. The suit is now begun and ended in the same court. The cause is not removed. The execution issues from that court, the court of error giving its assistance to come to a right final conclusion. I agree with the judges who think that the whole proceeding, from the beginning to the end of the suits, the taking of the opinion of the court of error, as well as acting upon it, constitutes the practice of the court since the recent alteration, and a different mode of taking that opinion is a part of that practice. But a question has been presented to our attention at the close of Sir Hugh Cairns's argument, and since fully discussed, which must now be considered. Was it competent for the judges of the exchequer to alter the law as to then pending proceedings, and to enact provisions at the time which they did—viz., on the 4th of November, 1863, so as to affect the verdict which the claimant then had, which was subject only to the then existing law, and make it subject to another mode of inquiry? I was much impressed with this objection at first, and was for a time strongly inclined to think that it was well founded, and that the new rules, though operative as to all future suits, were not operative in this. The further argument and a full consideration of this question have satisfied me that this objection is not well founded. Two questions present themselves: 1. What would have been the effect if the legislature had made a new act of Parliament containing precisely the same terms as the rules of the 4th of November? Would it have affected existing suits? 2. If it would, ought the rules to be construed in a different way, and not allowed to have that effect? Answer, that the new law would affect the existing suit; and the delegated authority to the barons of the exchequer ought to have precisely the same effect. First, in this case it is perfectly clear that

what I for the present may call the law of the 4th of November, 1863, took away no right. The verdict had been given for the claimant. The powers of tendering a bill of exception was gone. The new law took away no right from the claimant. It gave both the claimant and the crown precisely the same right, that of questioning the propriety of the decision of the court of exchequer on a rule for a new trial for misdirection. If the judgment was given for the claimant, the crown has the right to question that by appeal. If for the crown, he has exactly the same right. The new law is, therefore, perfectly fair to both parties. But, independently of that consideration, I think that if it were an alteration in mode of proceeding only, to the prejudice of the claimants, the objection would not prevail. There is no doubt of the justice of the rule laid down by Lord Coke in the 2d *Institute*, 202, that enactments in a statute are generally to be construed to be prospective, and regulate the future conduct of parties; but this rule of construction would yield to the intention of the legislature. It could not be supposed that the legislature meant to deprive a man of a vested right of action. This was laid down in *Moon vs. Dundas*, in 2, *Ex.* 22. But, on the other hand, it is clear that there is a material difference when an act of Parliament is dealing with a right of action already vested, when it is presumed that it is not intended to take it away, and mere procedure to recover those rights, which it may be quite reasonable to regulate or alter. This has been most clearly and satisfactorily explained in the case of *Wright vs. Heale*, 30 *L. T.*, *Ex.* 40, particularly by Sir James Wilde. In that case it was held that the common law procedure act, 1860, section 34, which enacts that if a plaintiff in action for a wrong in the superior courts recover less than £5 he shall not be entitled to costs, unless the judge certifies that the action was brought to try a right, applies to actions tried after but commenced before the suit. Sir James Wilde says, with truth, that this does not take away any right. The right of the suitor is to bring the action, and to have it conducted in the way and according to the practice of the court in which he brings it; and if any act of Parliament, or any rule founded on the authority of the act of Parliament, alters the mode of procedure, then he has a right to have it conducted in that altered mode. That, therefore, takes away nothing. The right of action does not make the right to keep all the consequences of the right as they were before. It gives the right to have the action conducted according to the rules then in force with respect to procedure. (6 *A. and E.*, 693; 6 *Bing.*, 238; 8 *Law J.*, 51.) I am, therefore, clearly of opinion that if the provisions of the rule had been in the act of Parliament of the same date, the act would affect existing suits, and would unquestionably have given an appeal in suits in which verdicts were already obtained. Secondly, are these rules made not directly by Parliament, but by delegated authority to be differently construed? I think not. Parliament has delegated the power, without restriction, to the judges. It has made no condition that it should operate only as to future suits; and, if it was not to affect pending suits, many useful alterations might have been prevented. The period of making the allowed rules is left entirely to the judges themselves to decide. It must be considered as unquestionable that they had a power to make rules for existing suits; and if they make great changes, even if they were to be thought to be unreasonable, they would not, therefore, be void, because the discretion of the judges is absolute and their rules final. But, in truth, they operated with perfect fairness on both the litigant parties. I forgot to say that the criticism on the language of the rules made in the course of the argument may be well founded. They are not accurately prepared, but their meaning is clear. There is a mistake in the provisions as to the court of error, which is copied from the words of the act. It referred to another court of error, but the meaning is perfectly clear, and the inaccuracy cannot possibly lead to a mistake. I am, therefore, of opinion that the judgment of the exchequer chamber ought to be reversed.

Lord CHELMSFORD. I cannot help feeling some regret that the learned barons of the exchequer did not hesitate a little before they determined to relieve the crown from the difficulty in which it was placed with respect to a bill of exceptions by issuing the rule in question, because, from the haste in which it was necessarily prepared, in order to render it available for its intended object, scarcely any time could have been afforded them to consider the grave doubts which have subsequently arisen, and which upon reflection might have occurred to themselves, as to their power to meet the emergency in the mode which they adopted. They might also upon consideration have felt that, however justifiable the occasion might seem, it was not desirable under any circumstances to make a rule which, though in terms calculated for general application, was purposely designed to answer the exigency of a particular case. To this rule so introduced an objection has been taken at your lordship's bar on account of its supposed retrospective operation. This objection does not appear to have been raised in the court of error, though incidentally mentioned in the course of the argument there. Whatever conclusion may be adopted as to the propriety of making the rule at the time and upon the occasion when it was issued, or as to its operation and effect, I am so strongly of opinion it was *ultra vires* of the framers of it that I think it unnecessary to make any observations upon its alleged invalidity on any other ground. The short question is whether the legislature, by the 26th section of the Queen's remembrancer's act (22 and 23 Victoria, c. 21) has given to a majority of the barons of the court of exchequer the power to determine whether it is expedient that there should be a right of appeal in a case in which none existed before. There is, to my mind, a sort of *prima facie* presumption against this having been intended, arising from the consideration that if the legislature meant to delegate their power in this respect a very few plain and simple words would have been sufficient to express their intention; but so far from clearly conveying their meaning, it is so concealed under the language they have employed that the ingenuity of the ablest counsel has been tasked to discover it; and after arguments of great length, both in this house and in the exchequer chamber, it is still left in the doubt and uncertainty which must necessarily result from the difference of opinion which it has produced. Clear and distinct language might have been expected upon an occasion when the legislature, having ample means of forming a competent judgment of the expediency of allowing an appeal in a particular case, were about to remit to the judges of a court the discretion of determining whether such an appeal from their own decisions ought or ought not to be granted. I quite agree with my noble and learned friend (Lord Wensleydale) that it is not necessary that the power should have been "distinctly and unequivocally given," but neither ought it to have been left to a doubtful and conjectural inference from equivocal words. The whole argument is involved in the construction of the latter part of the 26th section of the Queen's remembrancer's act, "and also from time to time," &c. The words to be principally dwelt upon are "process, practice, and mode of pleading." Now, of these words, "process" and "pleading" are by common consent dismissed as wholly inappropriate to describe any proceeding which is to be carried on beyond the walls of the court, and the whole stress of the argument is laid upon the word "practice." But as this word "practice" (more especially looking to the company in which it is found) would in its ordinary meaning be confined, like the other two words, to the court itself, it has been necessary to pray, in aid of the more extensive meaning contended for, the words of the common law procedure act, 1852, section 148, repeated in the Queen's remembrancer's act, section 19, that "the proceeding to error shall be a step in the cause." The argument then proceeds thus: Writs of error being abolished and appeals substituted, in every case in which error can be brought, the proceedings to the court of appeal are proceedings in the court below, and become part of the practice of that court. Therefore a statute empowering the judges

of one court from which no appeal lies to assimilate its practice to another, from which a right of appeal exists, necessarily and expressly confers the power to create such an appeal, or the practice of the two courts would not be uniform. But this argument appears to be without foundation, from the language of the legislature on which it is rested. It is to be observed that the words used are not, "the proceeding in error shall be a step in the cause," but "the proceeding to error." It would certainly be an extraordinary provision to enact that the proceedings in one court shall be part of the practice of another, but not at all to say that every step up to the very door of the court of error shall be a proceeding in the court from which the error proceeds. The word "practice," however, is said to be a word of wide extent. Mr. Justice Willes says it applies to "all the proceedings by which a cause is brought to judgment and execution." And Chief Justice Erle says, "throughout the common law procedure act and the Queen's remembrancer's act 'procedure' is used as equivalent to process, practice, and mode of pleading." But the word "procedure" is nowhere used in any of the enactments of the common law procedure act or of the Queen's remembrancer's act. It is merely part of the name by which the first mentioned act may be cited, and a portion of the title of the latter act. The learned chief justice's meaning must, therefore, be that the word "procedure" is used by the legislature as the description of an act which comprehends provisions as to process, practice, and pleading; a remark which, with great deference, appears to me to have no force at all in the argument. Mr. Justice Willes also is not quite accurate in saying that the word "practice" is a word applying "to all the proceedings by which a cause is brought to judgment and execution." In its ordinary meaning it is undoubtedly distinguished from the "pleadings," no unimportant part of the proceedings by which a cause is brought to judgment. The learned judge also, placing no reliance upon the word "process," and of course not on the word "pleading," says, "but coming to 'practice,' 'practice' is no term of art." Here, again, I must beg leave to differ with him. "Practice," even standing by itself, applies to a part of the proceedings of a court which are sufficiently distinguishable from the rest to be the subject of books of practice. As to his observation that one of the heads of such a work will be the head of "error," that is likely to be the case, because courts of error have their practice as well as courts of original jurisdiction. A book of practice, therefore, without such a heading might be regarded as imperfect or incomplete, but it could hardly be called "maimed" in the view of the learned judge, because nothing would be cut off from the history of the practice of the other courts, of which alone upon the supposition it would profess to treat. It may be that the word "practice," under certain circumstances, may be as comprehensive in its expression as the argument requires; but it hardly seems a correct mode of ascertaining its meaning in the place where it is found, to separate it from all the other words with which it is associated, and, having thus detached it from its qualifying context, to construe it by itself. Even if the term "practice" might in a popular sense be taken to comprehend all the proceedings in a suit from the beginning to the end, yet when the legislature uses it with the words "process and pleading" it must have a limited meaning assigned to it, and as the practice of a court is as much distinguished from its process and pleading as these portions of the proceedings are from each other, the word "practice" in such a connexion cannot be supposed to have been intended (in the words of Chief Justice Erle) "to include the whole of the suit from the issuing of the first to the execution of the last process."

But attributing the most comprehensive meaning to the word "practice," it is still the practice of the court of exchequer to which the statute refers; it is a proceeding in that court which is to bring the parties to the door of the court of error. The practice pointed at does not advance a single step over the threshold of the court of appeal. It is applicable to all cases in which a

right of appeal previously existed, but has no force whatever to create a new right. To give it that effect would be to confound the distinction (in the words of Mr. Justice Crompton) between "the machinery of the appeal and the right of appeal." The view which I have taken of the limited extent of the word "practice," in the 26th section of the Queen's remembrancer's act, appears to me to receive strong confirmation from other parts of the act. In several other sections appeals from the revenue side of the court of exchequer are specially provided for, and it may fairly be asked why, if the legislature intended that there should be an appeal in cases of motions for a new trial, a provision to this effect was not expressly made? It is generally considered to be a sufficient indication of intention, when certain things are specifically enumerated, that others not mentioned are not proposed to be included. Plausible reasons have been suggested why it was necessary that the act should contain provisions for appeals on special cases, bills of exception, and cases of succession and of legacy duty; yet no satisfactory explanation has been given why the legislature should have taken all these under its own direction, and, as if proclaiming its incompetency to decide upon a question of expediency, should have left the only remaining case to be provided for by the delegated discretion of a majority of the court of exchequer. But even limiting the view to the section in question, the whole frame of it appears to me to militate against the construction which would extend the power of the barons of the exchequer to a proceeding beyond the precincts of their own court. Besides the company in which the word "practice" is found, both clauses of the section provide for the exercise from time to time of the powers which it confers. It has been argued, and perhaps correctly, that if the barons possessed the power of giving an appeal, and executed it, it could not be recalled. But this appears to me to prove that the act could not apply to such an irrevocable power, but was intended to be confined to the adoption of such provisions of the common law procedure acts with respect to process, practice, and pleading as might properly be subject to alteration "from time to time," according to the result of experience. It was argued that unless the power to extend, apply, or adapt any of the provisions of the common law procedure acts applies (among others) to the clauses giving the rights of appeal on motions for new trial, the powers given by the two clauses would be co-extensive, and the latter would be merely a repetition of the former. But it appears to me that the two portions of this section may be distinguished from each other, and that each may have its due effect. Alterations in the proceedings on the revenue side of the court of exchequer having been introduced by the act, some rules would be absolutely required to meet this new state of things. Accordingly, the former part of the section directs the barons to make such rules as might seem to them necessary and proper. But beyond these rules, which were indispensable, the legislature, considering that some of the provisions of the common law procedure acts, and the rules of pleading already made for the regulation of the pleading and practice on the plea side of the court, might possibly be usefully applied to the revenue side, but not having the practical experience necessary to enable them to make a selection for themselves, therefore by the latter part of the section they leave to the discretion of the judges to determine which of these provisions and rules, if any, it is expedient to adopt in order to produce uniformity in the proceedings on both sides of the court. My noble and learned friend (Lord Wensleydale) says, "The words of the latter part of the section, authorizing the chief baron and barons from time to time, by any rule or order, to extend, apply, or adapt any of the provisions of the common law procedure acts, are quite independent of the clause authorizing the application of the rules of pleading and practice." But, with great respect, I would observe that in this portion of the section the sense is carried on from the words "and also" continuously to the end; that the whole of it must therefore be taken together in construction, and then it will appear that it is not to any of the provisions of

the common law procedure acts absolutely that the power applies, but only to such as may seem expedient for making the process, practice, and mode of pleading on the revenue side of the court as nearly as may be uniform with the process, practice, and mode of pleading on the plea side of such court. We are thus brought back again to the point upon which the whole controversy turns—viz: the meaning of the word “practice” as it stands in the act. I have already endeavored to show that it cannot possibly apply to any proceeding beyond the court itself, and therefore those sections of the common law procedure acts which relate to appeals are not within the range of the discretionary authority intended to be conferred by the legislature. I have arrived at this conclusion with great reluctance. It is very much to be regretted that the crown should have been deprived of the means of appealing from the decision of the court of exchequer upon a question of national importance. I should have been glad to find some reason for supporting the validity of the rule issued by the barons, but I can discover none. I must therefore act upon the clear conviction of my own judgment, and pronounce my decided opinion in favor of the respondents.

Lord KINGSDOWN. The argument in the first question in this case, the power of the court of exchequer to make the orders in question, has been so entirely exhausted that it would be improper for me to go into it at any length. The reasons assigned by the majority of the judges in the exchequer chamber appear to me to preponderate, and the grounds on which my judgment rests are laid down more clearly than I could state them in the opinion of the lord chief justice. Previously to the Queen’s remembrancer’s act, there were, as I understand, no means of reviewing a decision of the court of exchequer on the revenue side except by writ of error. Under the two acts of common law procedure of 1852 and 1854, there were on the plea side a more simple proceeding in error than by writ of error, and also the several other remedies introduced by the act of 1854. There was, further, the proceeding by bill of exceptions, independently of those acts. If all the proceedings in error and appeal applicable to the plea side of the court were considered applicable to the revenue side, there seems no reason why, by the act of 1854, they should not have been extended to both sides. The same observation applies to the act of 1859. Why, if they were thought by the legislature to be all applicable, were they not all applied? But, instead of taking that course, the legislature makes a careful selection of some clauses and omits others. With reference to the particular matter now in question, it omits the appeal from the decision on a motion for a new trial, and gives, as I think, in substitution for it, the proceeding by bill of exceptions. It has been said that the same relief may be by both these modes of proceeding, but that there are many difficulties in the latter which are not found in the former. If this be so, the crown may have been willing to give the right of review, subject to the restrictions which those difficulties might impose, but no further; but that, contemplating the application of both remedies, the legislature should itself give the one and least convenient, and leave it to the court of exchequer, at its discretion, to give or withhold the other, is to me quite inconceivable. It may have used words so large as to compel us to say that this power is given; but if the clause be capable of two constructions, I think that should be adopted which is most consistent with the probable intention to be collected from the other clauses. When the words of the 26th section are examined, it seems to me that they neither require nor warrant the larger construction. The clause is introduced for the purpose of enabling and directing the court of exchequer to make rules and orders for regulating its process, practice, and mode of pleading, with a view to the alterations introduced by the act, and to making such process, practice, and mode of pleading, as nearly as may be, uniform on the two sides of the court. For this purpose, and, as I understand it, for this purpose only, it may extend, apply, and adapt any of the provisions of the

two acts of 1852 and 1854. Read in their ordinary meaning, as applied to proceedings within the court itself, the words are reasonable, consistent with the other provisions of the act, and in accordance with what is found in the two acts referred to. They are consistent also with the provision that the rules may be made from time to time, and with the fact that the same words which apply to the provisions of the two acts are applied also in the expressions immediately following to the rules of pleading and practice on the plea side of the court. I am by no means satisfied that there is any redundancy in the language of the clause thus construed; but if there be, it is not, in my opinion, sufficient to outweigh the objections to the other construction. What the court of exchequer has attempted by its order to do is to give to two superior courts—the exchequer chamber and the House of Lords—jurisdiction to hear, and to impose upon them the duty of hearing, an appeal against its decisions, with which, except for those orders, those courts would have neither the duty nor the right to interfere. Can it possibly be said that this is to regulate the practice of the court of exchequer? All the proceeding which leads to the other courts, when those other courts are open, all the proceeding to error, is a step in the cause and part of the practice of the court; but whether the doors of the other courts are to be open or not surely is not a point of practice in the inferior courts. It is said that the legislature has already given the appeal by means of a bill of exceptions, and that what is now proposed to be done is only to do the same thing in a more convenient form. But the answer to this seems to me to be, that the legislature has given no general power to the superior courts to review the decisions of the court of exchequer. It has prescribed certain special modes of proceeding by which this may be done, and has by necessary implication excluded others. The law before the orders said, “the decision of the court of exchequer on a motion for a new trial shall be final.” The orders say it shall not be final. It is not a new mode of effecting an object which could already be attained in a different mode. There was no mode whatever then subsisting by which the order now complained of could have been disturbed. There was a mode by which the necessity of moving for a new trial might have been prevented; but that is quite a different thing, and it is not because that mode has failed (no matter from what cause) that the court of exchequer can create a new jurisdiction which the legislature has not created, and, in my opinion, has not authorized the court of exchequer to create. Having arrived at this conclusion on the first point, I think it unnecessary to say anything on the second.

The effect of the judgments is, there being a majority of four to two against the crown, that the verdict of the jury in favor of the claimants of the Alexandria remains undisturbed.

From the London Times, April 7, 1864.—(*Editorial.*)

Yesterday the House of Lords gave a judgment adverse to the crown in the case of the Alexandria, on the preliminary question as to the power of the court of exchequer to make the rules under which the case was taken before the exchequer chamber and then to their lordships' house. Four lords, the chancellor, and Lords St. Leonards, Chelmsford, and Kingsdown, upheld the judgment of the exchequer chamber, which dismissed the appeal from the court below, and two, Lords Cranworth and Wensleydale, were for reversing that judgment. The result is that the decision of the court of exchequer stands. That decision was in favor of the defendants, “Sellim and others,” the four judges being equally divided, and Mr. Baron Pigott having accordingly withdrawn his judgment. The public will be rather disappointed to find that the law on the

principal questions involved is not to be declared by the highest tribunal in the realm, but that the final decision has been pronounced on a technicality subtle and narrow beyond even the ordinary narrowness of the law. We had hoped that when such great interests were involved in the decision, when such an expenditure of time and trouble and money had taken place in ascertaining the control of the crown on the one side and the right of individual action on the other, the nation might have had the benefit of the ably conducted contest and learnt on the highest authority what construction was to be placed on the foreign enlistment act. But for the purposes of settling the law the Alexandra case has been a failure. For the present the victory remains with the defendants, but it is impossible to suppose that the government will acquiesce in the law as laid down by the two senior judges of the exchequer, or fail to bring any new offender to account, even if it should render necessary another struggle in the courts of law. This is to be regretted. Yet the question that was yesterday decided, though it has nothing to do with the foreign enlistment act, is sufficiently interesting to receive the attention even of those who are not professional lawyers. It had divided the court of exchequer chamber—four judges of the Queen's Bench giving a judgment contrary to three judges of the common pleas, and holding the opinion which the House of Lords has now declared to be the right one. The House of Lords itself is divided, the names of two such eminent common law judges as Lords Cranworth and Wensleydale being found in the minority.

If we may venture to analyze their lordships' judgments, the two last mentioned based their decision on what they considered to be the strict literal rendering of an act of Parliament, while the four whose judgment prevailed took the broad view that for a court to empower a superior court to hear appeals from it was an absurdity, which ought not to be attributed to the language of any act. The question was whether the rules made on the 4th of November last were warranted by the 26th section of the Queen's remembrancer's act, passed in 1859. The state of things at the time the Alexandra case was heard in the exchequer was this: On the revenue side of the court either party—that is, either the crown or the defendant—might tender a bill of exceptions, and so bring the matter before the courts of error, the exchequer chamber, and the House of Lords; but if, instead of that course, either party preferred to move the court of exchequer after verdict for a new trial, there was no appeal to courts of error. In the Alexandra case this course was chosen, and the barons of the exchequer, desirous that the question should be taken before a higher tribunal, took advantage of the 26th clause of the Queen's remembrancer's act, which authorized the chief baron and two other barons to extend and adapt to the revenue side any of the provisions of the common law procedure acts, for the purpose of making the "process, practice, and mode of pleading" on the revenue side as nearly as may be uniform with the process, practice, and mode of pleading on the plea side. On the plea side there would have been an appeal in a case analogous to that of the Alexandra, and by the rules of the 4th of November last the barons of the exchequer allowed an appeal on the revenue side. The question was whether the words "process" and "practice" could be made to extend to giving a jurisdiction to another court, or if they were only to be interpreted as referring to matters determinable entirely in the court itself. Lord Cranworth argued that they were not justified in departing from the ordinary interpretation of words merely because they confer unusual powers. He proceeded to remark that the rules merely give to suitors on the revenue side of the court the same facilities of getting out of the court below and reaching the courts of error as are possessed by suitors on the plea side. "It does not give substantially any new right of appeal; for, looking to substance, not to form, the party appealing is only doing what he might have done by bill of exceptions." Thus Lord Cranworth would represent the change as merely one

of "practice," giving a suitor who had taken one form of questioning a disputed ruling of the judge at the trial the same facilities for going before the highest tribunal as are possessed by a suitor who had taken another. Similar is the reasoning of Lord Wensleydale, who says: "The true question for us to decide is, what is the ordinary and grammatical meaning of the words used in this section?" and he further declares that in his opinion there is nothing unreasonable in the doctrine that the legislature should delegate to the judges the power of making rules to facilitate and regulate appeals, when the ends of justice would be attained by such a provision.

But the lord chancellor, who spoke first, and moved that the appeal to the crown should be dismissed, took, with three of his learned compeers, a widely different view. The grounds of his judgment may be understood from one or two sentences. "The creation of a new right of appeal," says Lord Westbury, "is plainly an act which requires legislative authority, and by which the court from which the appeal is given and the court to which it is given must both be bound, and that must be the act of some higher power. It is not competent to either tribunal or to both collectively to create any such right." If the legislature were to give to a court the fullest power of regulating its own practice or procedure, "such power would not avail for the creation of a new right of appeal, which is in effect a limitation of the jurisdiction of one court, and the extension of the jurisdiction of another. A power to regulate the practice of a court does not involve or imply any power to alter the extent or nature of its jurisdiction." It is impossible not to be impressed with the cogency of these remarks. The chancellor speaks as a jurist defending the principles on which all laws must rest. Of the rules themselves he says further on: "These rules are so many legislative enactments purporting to create a new jurisdiction in the court of exchequer chamber and the House of Lords, and prescribing the mode in which such new jurisdiction shall be exercised. It is simply an incorrect use of language to call such enactments provisions respecting the process, practice, and mode of pleading in the court of exchequer." These and similar reasons prevailed with a majority of their lordships, the appeal of the crown was dismissed, and the verdict of the jury in favor of the defendants remains undisturbed.

However much we may admire the learning and subtlety displayed in this controversy, the more important question will still recur, what course the government intends to take in cases such as those of the Alabama, the Alexandra, and the steam-rams. Is it not a matter for legislation? Although the insolent assumptions of the northern Americans may make Parliament unwilling to pass new measures at a time when the presumed concession may be misinterpreted, yet, after all, we ought not to shrink from doing that which is not only just to others, but advantageous to ourselves. If the foreign enlistment act, according to the judgment of the court of exchequer, be insufficient to repress enterprises endangering the peace of the country, surely it is better to apply to the legislature than to trust that in some future case a resort to a bill of exceptions will carry the main question to a tribunal which may reverse the judgment already given!

[From the London Times, April 7, 1864.]

SETTLEMENT OF THE PAMPERO CASE.—We understand that the case of the Pampero will not now go to jury trial, an arrangement having been made for its settlement. We believe that by the arrangement the owners have consented to a verdict being entered for the crown, forfeiting the vessel on some one count of the information, to be selected by the owners; they making such explanatory statement on the subject as they may think desirable. It is provided, on the

other hand, that the owners are to retain and trade with the vessel, but are not to sell it for two years, except with the consent of the crown; and that alterations are to be made on the structure of the vessel. We understand that the builders are no parties to the compromise, which provides for settling their claim and having it withdrawn from the proceedings.—*Scotsman*.

Mr. Adams to Mr. Seward.

No. 653.]

LEGATION OF THE UNITED STATES,
London, April 8, 1864.

SIR: I have just received a letter from Mr. Mellen, consul at Mauritius, covering copies of his correspondence with the authorities at that place on the subject of the cargo of the *Sea Bride* down to the 1st of March. I infer from his language that he has already furnished the same to the department, so that I hesitate to send them. Neither shall I venture to make any representations here until I receive information and instructions from you.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD, &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 654.]

LEGATION OF THE UNITED STATES,
London, April 9, 1864.

SIR: I have the honor to transmit herewith, out of the regular course, a copy of the *Morning Post*, of this day, containing the official regulations upon foreign commerce recently established by an act of the rebel congress.

I have the honor to be, sir, your obedient servant.

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

[From the *London Morning Post* of April 9, 1864.

THE CONFEDERATE STATES.

Official regulations to carry into effect the act "to impose regulations upon the foreign commerce of the Confederate States, to provide for the public defence," approved February 6, 1864.

I. AS TO THE SEA.

1. The owners of any vessel intending to sail from a confederate port with a cargo consisting in whole or part of cotton, tobacco, military and naval stores, sugar, molasses, or rice, shall, before the lading on board of any of such articles, file with the collector of the port from which the vessel is to sail a copy of her register, with a declaration of the names of the owners and officers thereof, the place of their birth, and of their residence for the preceding year, together with the port or place to which the said vessel proposes to sail. The said declaration shall also set forth the quantity and value, in confederate currency, of the cargo proposed to be taken out, as also the consent of the said owners that one-half

of the tonnage of the said vessel may be employed by the confederate government for its own use, both on the outward and homeward voyage, at the rate of freight hereinafter mentioned. The collector shall submit a statement as to the owners and officers to the military commandant of the port, and if he shall not object to their loyalty, or to the sailing of the vessel for reasons of military necessity, the collector shall grant a permit for the lading of the said vessel, one-half for account of the owners, and one-half for account of the Confederate States.

2. Before the said lading shall be completed, the owners of the vessel shall execute to the Confederate States a bond in double the value of the vessel, with security deemed adequate by the collector, conditioned that she will pursue the voyage designated, and that she will return with reasonable despatch to a confederate port after her outward cargo shall be discharged, with a cargo, consisting one-half of articles not prohibited by the laws of the confederate government, and the other half of such articles as the government shall offer for shipment from such port, at the rate of freight hereinafter mentioned.

3. Each shipper of any portion of the cargo proposed to be laden on board the said vessel shall, before the lading thereof, make application to the collector for a permit to lade the same, which application shall declare the articles to be shipped, and the quantity and value thereof in confederate currency, the port of destination, and the name of the consignee. A permit shall then be granted by the collector if the application is deemed satisfactory. The lading shall be had under the inspection of a revenue officer, who shall be charged with the duty of seeing that the goods laden conform to the permit.

4. Before the completion of the lading on board or the granting a clearance, each shipper of any portion of the cargo shall execute and deliver to the collector a bond to the Confederate States, in double the value of his shipment in confederate money, with security deemed adequate by the collector, with condition that at least one-half the net proceeds of said shipment shall be invested in goods or articles not prohibited by law, and that the said goods or articles shall be shipped by the same, or some other vessel, to the Confederate States within sixty days from the unloading of said cargo, or that the said half of the net proceeds shall be paid in coin or sterling exchange to the proper agent of the Confederate States, to be reimbursed to the shipper by the delivery to him of cotton at the port of departure in the Confederate States, at the rate of 10*d.* sterling per pound for middling uplands.

5. The freight to be paid by the Confederate States on all cotton and tobacco shipped from a confederate port shall be 5*d.* sterling per pound, payable on delivery at the port of destination, in coin or sterling exchange. Return freight shall be at the rate of £25 per ton, payable on its delivery in the confederate port, in cotton at 10*d.* sterling per pound for middling uplands, and at a proportionate price for cotton of other qualities. In calculating the ton of freight by weight, 2,240 pounds shall be allowed; by measure, 40 cubic feet shall be allowed.

6. If the outward-bound vessel shall consent, at the request of the government, to take two-thirds her cargo for account of the Confederate States, the outward freight shall be 6*d.* sterling per pound; and whenever the government is not prepared to fill up any portion of the tonnage reserved for its use at the time at which any vessel may be made ready to sail, the owners may fill up the same on their own account; but no vessel shall, without consent of the government, sail on her outward voyage until one-third of her cargo shall be laden for the use of the government.

7. The rates of freight for articles other than cotton and tobacco shall be adjusted at the same relative rate, and be payable in the same way.

8. The government reserves the right to limit or prohibit the shipment of rosin, turpentine, or any manufacture thereof, whenever deemed dangerous to its own shipment.

9. Upon the completion of the lading of the vessel, and before receiving her clearance, there shall be delivered to the collector, in addition to the usual manifest, another setting forth the names, ages, and description of her officers and crew, and of every passenger intending to sail in her. The said last-mentioned manifest shall be delivered to the commandant of the port, who shall thereupon cause the entire vessel to be searched, and if satisfied that the parties on board are persons who may safely be permitted to leave the confederacy, and that the passengers have the proper passports, he shall certify the same on the manifest, and return the same to the collector, whereupon, and not before, a clearance shall be granted to the vessel, and she shall be permitted to sail.

10. The owners of each vessel, and of each portion of a cargo sailing from a confederate port, shall be allowed to take up their respective bonds, by producing to the collector the certificate of the proper agent of the confederate government at the port of delivery, setting forth the particulars showing that the said party has complied with the obligation of the said bond, so far as the same was practicable, and the collector, upon being duly satisfied, shall be authorized to surrender the said bonds.

11. Nothing in these regulations shall be so construed as to conflict with the proviso of the law which declares "that nothing in this act shall be construed to prohibit the Confederate States, or any of them, from exporting any of the articles herein enumerated on their own account;" nor shall a bond be required of a State in any case.

12. The penalties of all bonds executed in conformity with these regulations shall be recovered in full on proof of breach of the conditions of the bond, (and without proof, any damage suffered by the Confederate States in consequence of such breach,) and all bonds shall be executed in such force as to give effect to this regulation.

13. Vessels sent into the confederacy for the purpose of exporting cotton received in payment of any confederate bond or obligation shall be subject to these regulations only so far as relates to such portion of the tonnage, if any, as may remain vacant after the lading of the cotton received in payment as aforesaid.

14. The regulations for overland commerce with neutral countries will be issued separately within a few days.

Approved:

C. G. MEMMINGER,
Secretary of Treasury.
JAMES A. SEDDON,
Secretary of War.

Approved March 5, 1864.

JEFFERSON DAVIS.

Mr. Seward to Mr. Adams.

No. 908.]

DEPARTMENT OF STATE,
Washington, April 11, 1864.

SIR: As the season advances, public impatience for military movements arises and utters itself often in terms of discontent, which may mislead the friends of our country abroad. The movements of the armies in Louisiana and Arkansas still continue to be reported favorably. Much is said of insurgent raids in Kentucky, which are of no particular effect or significance. If the armies of the Potomac and Cumberland had been prepared to advance, the rains which have fallen and rendered the roads impassable would have arrested progress. You will take notice of an order of Lieutenant General Grant, which indicates the 16th instant as the day on which the repose of the forces will come to an end.

If we may rely upon recent expressions, the country is fast reaching a resolute and unanimous determination to persevere in the present policy of the government. The election which has just passed in Connecticut indicates an exhaustion of the opposition. The people of Maryland have called a convention to abolish slavery in that State. The Senate of the United States have by a constitutional majority sustained a proposition to amend the federal Constitution by abolishing slavery. The House of Representatives, which, as you will remember, was elected in the reactionary period of 1862, has, by a very large majority, rebuked and censured a member for remarks favorable to secession.

The financial bills are still lingering in Congress. But the disposition of a large majority is conciliatory, as well as patriotic, and I do not apprehend a failure of the measures which are necessary to sustain the public credit.

In regard to the tone of the insurgents I need say only that the desertions of soldiers as well as of citizens continue in such degree as to indicate a waning of popular confidence in the success of the conspiracy against the Union.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

[Extracts.]

No. 655.]

LEGATION OF THE UNITED STATES,

London, April 14, 1864.

SIR: Owing to the late arrival of the steamer Arabia, I have only this morning received despatches, numbered from 884 to 891 inclusive, together with a paper marked private and confidential. Not having had the necessary time to execute any instructions they contain, I shall defer a particular reference to them until next week.

All other matters have been thrown into the shade by the advent and reception of General Garibaldi. It was a purely popular demonstration, said by good judges to exceed anything of the kind on any previous occasion. * * * I called upon him at once, and last evening was presented to him, at the grand reception held at Stafford House. His deportment is modest and dignified, and makes a very favorable first impression upon all who see him. I have reason to believe that the other members of the corps diplomatic have avoided noticing him. With the exception of M. Musurus, the Turkish ambassador, none of them were in attendance at Stafford House.

There is much speculation afloat as to the causes of his coming to Great Britain at this time. The wildest rumors have been put in circulation, many of them doubtless by those who fear its effect. * * *

In the midst of all this excitement, as well as of the military operations going on in Denmark, the American question has for the moment subsided almost out of notice. * * *

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

Mr. Adams to Mr. Seward.

No. 657.]

LEGATION OF THE UNITED STATES,

London, April 14, 1864.

SIR: In connexion with my despatch, No. 643, of the 8th of April, I now have the honor to transmit a copy of a note of Lord Russell's to me, dated the same day, in answer to mine of the 21st of March, on the subject of the delay in the proceedings at Liverpool for the extradition of the pirates of the *Joseph L. Gerrity*.

It would appear from this that the postponements are made under authority from the government. No doubt proper commissions from Richmond will be made and forwarded in season to effect their release.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

*Earl Russell to Mr. Adams.*FOREIGN OFFICE, *April 8, 1864.*

SIR: With reference to my letter of the 21st ultimo, I have the honor to state to you that I am informed by the secretary, Sir George Grey, that the circumstances connected with the alleged case of piracy on board the *Joseph L. Gerrity* having been brought by the magistrate at Liverpool, before whom the case was heard, to Sir George Grey's notice, he had thought it right to consult the proper law officers of the crown thereupon; and that he had been advised that, having regard to the nature of the allegations made by the prisoners, they ought to have the opportunity of proving, if they are able to do so, that they acted under authority, and that they should, if they require it, be remanded a sufficient time for that purpose.

I have further to observe, that if (as appears to be the fact) the magistrate is of opinion that sufficient time ought to be granted to enable the prisoners to apply for their discharge upon *habeas corpus* to a supreme court, the peculiar circumstances of this case, and the importance of the consequences which it may involve, seem to be such as justify him in taking that course. I am unable, therefore, to admit the justice of the complaint of the magistrate's proceedings contained in your letter; nor would her Majesty's government consider the exercise of similar care and circumspection by any magistrate of the United States, in the case of a like demand by her Majesty for the extradition from the United States of persons charged with a capital offence, as at all opposed to the letter or spirit of the treaty between the two countries.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

[Extracts.]

No. 658.]

LEGATION OF THE UNITED STATES,

London, April 14, 1864.

SIR: Since my No. 644, of the 8th of April, I have received two notes from Lord Russell, both dated the 9th instant, on the subject of the alleged enlist-

ments by the commander of the *Kearsarge* at Queenstown. To these notes I replied on the 11th, and received an acknowledgment from his lordship on the 13th instant. Copies of this later portion of the correspondence are herewith transmitted.

It is, however, quite plain to me that there was some connivance on board of that ship in the scheme of enlisting these Irishmen. I presume that it was mainly the act of Haley, the Irish petty officer. But the case appears to have been now carried to such a point as to render an investigation necessary.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

Earl Russell to Mr. Adams.

FOREIGN OFFICE, April 9, 1864.

SIR: I have had the honor to receive your letter of the 2d instant, in answer to the letter in which I requested you to inform me whether you had any explanations to offer with regard to the British subjects who were indicted for taking service in the United States ship *Kearsarge*.

In reply to your letter, I have only to regret that officers Thornton and Haley, who appear clearly to have violated the municipal law of this country, which they were bound to have made themselves acquainted with, should still be retained in the service of the United States.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

FOREIGN OFFICE, April 9, 1864.

SIR: I transmit to you herewith extracts from a deposition of one Daniel O'Connell, by which you will perceive that he was examined and sworn before or with the knowledge of officers of the United States ship-of-war *Kearsarge*, and furnished with the uniform of a United States sailor.

I know not how these circumstances, occurring on board a ship-of-war, can have taken place without the knowledge of the captain of the vessel.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

[Extracts from declaration by Daniel O'Connell.]

"A man that was, I believe, a doctor, examined me, being stripped, and told me I was fit for service. I then went forward, and the ship sailed next day.

"One of the officers of the ship took me (with eight or nine of the men who had come on board at Queenstown) on shore at Brest in a boat, and when the boat had just touched the beach, the officer said: 'Any of you that wish can

go on shore, but if you wish you can enter on board the ship.' All the men said 'they would enter,' upon which the boat returned to the Kearsarge, and we were all sworn to enter the United States navy for three years at \$12 per month each, and our names were entered in the ship's books, and we were provided with the ship's uniform."

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,

London, April 11, 1864.

MY LORD: I have the honor to acknowledge the reception of two notes from your lordship, both dated the 9th instant. One of these notes expresses regret that officers Thornton and Haley, of the United States steamer Kearsarge, who, in your view, appear clearly to have violated the municipal law of this country, should still be retained in the service of the United States.

The other transmits to me extracts from a deposition of one Daniel O'Connell, in further support of an inference that the captain of the Kearsarge must have known of the enlistment of the Irishmen at Queenstown.

I would respectfully call your attention to the manner in which this latest testimony affects that which has been published heretofore. Edward Lynch, in deposition taken on the 16th of November last, affirms that he went on board the Kearsarge in company with the said Daniel O'Connell, and that he saw the boatswain ship the said O'Connell at Queenstown after he had passed the usual inspection. This was on or about the 3d of November. He admits that the captain was not on board, but that he heard the commander say to the boatswain: "I'll leave them in charge to you now." This is all the evidence that appears in any degree to implicate the first officer, here called the commander, Mr. Thornton, in the charge of enlistment within this kingdom.

But Daniel O'Connell himself on his side changes the whole scene of the transaction. He avers in the extract you have been pleased to furnish to me that the enlistment took place when one of the officers, whom he does not name, and who was not likely to have been Thornton, took eight or ten of the men in a boat for the purpose of landing them at Brest, in France. This must have been at the time when Captain Winslow affirms that he ordered them so to be landed for the purpose of getting rid of them. It would seem that this officer, instead of obeying orders, then offered to them the chance of landing, or else of enlisting, upon which they all chose the latter, returned to the vessel, and were then enlisted. This enlistment was then made in a port of France.

It necessarily follows, from this exposition, that if O'Connell were enlisted at Queenstown, as Edward Lynch affirms, there was no enlistment of him at Brest, as O'Connell himself avers. If, on the other hand, O'Connell is right, that he was enlisted by an officer in a boat at Brest, then it is clear that there was no enlistment of him at Queenstown by officer Thornton, as alleged by Lynch. Two successive enlistments of the same man, at about the same time, are not necessary or customary in any service. On the other hand, officer Thornton himself denies that he ever enlisted anybody. He affirms that he expressed himself willing to accept the men at Queenstown if the captain on his return from shore should approve of the proceeding; but the captain did not approve, and nothing more was done about it by him.

If the officer who had charge of the boat to place the men on shore at Brest, in obedience to the order of the captain, took the responsibility of then and there enlisting and returning them to the ship, it is plain that he must have been acting directly in the face of his authority, and, furthermore, that he was immediately disavowed by his principal, for the steamer was forthwith ordered to

leave Brest, and make a direct course back to Queenstown, for no other purpose than to get rid of these very men who are said to have been enlisted for three years. The contradiction is too apparent and palpable to permit of further doubt as to the character of the testimony. On the other hand, Captain Winslow himself says that when he found, after leaving Queenstown, that the men who, against his orders to clear them out of the vessel, were still on board, having been secreted there, he decided upon landing them at his first stopping place at Brest. They were landed accordingly; but upon reconsideration of their destitute condition and of the danger of their falling into the hands of the insurgents, notoriously without scruples about enlisting the subjects of Great Britain, or any other nation, he determined to take them on board again, for the purpose of returning them to Queenstown, which was accordingly done with promptness and despatch.

I am constrained to believe this account to be altogether the most consistent and credible. The others conflict with each other and with probability so strongly that I trust I may be pardoned for withdrawing the little credit I have been heretofore disposed to give them.

The only remaining piece of circumstantial evidence to sustain the idea of enlistment is the admitted fact of the men having been landed whilst dressed in the clothing of seamen in the United States service. That such clothing was given out to them probably with the connivance of the petty officer whose agency first induced them to come on board is very certain. That it was not taken away from them is alleged to be solely owing to the fact that their own clothing was in every respect unfit for them to appear in decently on board. During the period of their stay they were rated on the ship's books, to make the accounts regular, and when they left it was deemed more proper to let them have the dress they had already worn for some time. Had it been thought that this liberality would be urged by your lordship as a proof of their enlistment, nothing would have been more easy to obviate the suspicion than to return them in rags, as they came.

I am not, however, disposed to withdraw my former admission that in the original proceedings there is evidence of some connivance on the part of one or more of the petty officers of the *Kearsarge* in the endeavor to enlist these men in the service of the United States. That the first officer, Thornton, had any intention of the kind I am constrained more seriously to doubt. I do not regard myself as possessed of authority to direct a pursuit of the investigation on this side of the Atlantic. But understanding it from your lordship's note to be the wish of her Majesty's government that further measures should be taken to ascertain the precise nature of the action of the suspected parties, and that they should be visited with a suitable penalty if found guilty, I shall do myself the honor to communicate your wish for the consideration of my government. I do not doubt that the proper authority will direct further proceedings to be had in order to arrive at the precise truth, and to give just satisfaction to your lordship in case of the proof of any offence.

I pray your lordship to accept the assurances of the highest consideration with which I have the honor to be, my lord, your most obedient servant,

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c., &c.

Earl Russell to Mr. Adams.

FOREIGN OFFICE, *April 13, 1864.*

SIR: I have the honor to acknowledge the receipt of your note of the 11th instant, relative to the proceedings of the officers of the United States steamer

Kearsarge in regard to the enlistment of British subjects for service on board that vessel.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

[Extracts]

No. 661.]

LEGATION OF THE UNITED STATES,

London, April 21, 1864.

SIR: Despatches from the department, numbered 891 to 903, inclusive, have been received. It may be as well to note that a despatch numbered 891 was transmitted by the preceding steamer and the reception of it acknowledged by me last week.

The public attention has been so much fixed on the proceedings of General Garibaldi that little else has been thought of. The conference upon the Danish matter was to have assembled yesterday, but another delay was interposed by the German powers, so that it was adjourned until Monday. Meanwhile the Prussian forces are acting with energy and success in the field. It seems plain that the conference, when it assembles, will have little left to do but to record and ratify the results of this unequal contest.

American affairs have much ceased to be discussed.

* * * * *

I transmit a copy of the London Times containing a report of a debate in the Commons on Monday evening, mainly for the sake of bringing to your notice the speech of Mr. Disraeli. The policy of the opposition and the obstacles in the way of their success are disclosed with tolerable distinctness.

It is understood that the mission of Lord Clarendon has been favorably received at Paris. Efforts are made here to regard it as a complete restoration of good feeling. But this is doubtful at best. The reception of Garibaldi stirs the popular heart everywhere.

* * * * *

His departure to-morrow, on his way home, has been announced. Efforts are, however, making by popular bodies to induce him to reconsider this decision. The issue of this conflict of forces will be known this morning. Whichever way it may turn, the disposition to put a speedy end to this demonstration is becoming unequivocal enough.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HOUSE OF COMMONS, *Monday, April 18, 1864.*

PRIVILEGE.

MR. DISRAELI. Sir, it is now my duty, with a little more detail than I ventured to use the other night, to call the attention of the house to a question of privilege, a question arising out of the distribution of offices held by members of her Majesty's government. The house will perceive that the question is one of very great gravity. Already it has led, in a constitutional sense, to considerable inconvenience, and it may, if neglected, produce results of a character so serious that it is difficult at this moment adequately to describe them. And, sir,

my opinion is that the embarrassing and even dangerous position in which this house is placed in regard to the distribution of offices here—embarrassing certainly to the ministry, and, as I shall show, dangerous to the house—had its origin in the way the present government was formed when the noble lord, the present prime minister, acceded to office. The house will remember that at that time a great number, I may say the majority, of the great offices of state were represented in the House of Lords. I would not myself lay down any inflexible rules, such as the laws of the Medes and Persians, with respect to the distribution, on the formation of a ministry, of the offices of state between the two houses of Parliament. On the whole, that must be left to the discretion of the person who undertakes the responsibility of forming an administration; but there are circumstances which I think, generally speaking, ought to guide the individual who finds himself in the position of being called on by the sovereign to form a government in regard to the distribution of offices. For example, I would venture to say that I think the heads of the two great departments of public expenditure should find seats in the House of Commons. I don't think the due control of this house over the public expenditure can be sufficiently possessed and manifested under other circumstances, and if the control of the house is diminished in that respect its authority in the estimation of the country will proportionately suffer. [Hear, hear.] With respect to the secretaries of state, I would say that the majority of them should have seats in the House of Commons—a large majority of them, I would say, as was the case with the late government. [Hear.] The house will see that in this matter the constitution has adequately provided for the representation of the ministry in the other house of Parliament. One secretary of state must have a seat in the House of Lords—at least he cannot sit here, and, therefore, he must find a seat in the House of Lords. The lord chancellor, one of the most eminent members of the cabinet, and the head of the judicial system of this country, must have a seat in the other house; the lord president of the council must also be a peer, as must also the lord privy seal. The postmaster general is by statute prohibited from sitting in the House of Commons; and since the reform bill passed—a measure which it was supposed would so greatly increase the influence and power of the popular branch of the legislature—the prime minister, in the majority of cases, has found a seat in the House of Lords. Added to this, the chief offices of the household have sometimes been held by eminent peers, as by Lord Wellesley, for instance. I think no one can deny, therefore, that the constitution has provided very adequately for the representation of the government in the House of Lords. [Hear, hear.] And when we reflect on the manner in which the public business is divided between the two houses, when we compare the labors of this house with those of the House of Lords, I think it is obvious that it is in this branch of the legislature the great majority of the offices held by the administration should be represented. [Hear, hear.] I recollect that before the present administration was formed—a few days, I believe hours, before the fate of their predecessors was decided—in a somewhat memorable speech it was said that the government in this country ought to be conducted by the educated section of the liberal party. [Laughter and cheers.] Well, sir, I thought at the time that was a phrase more candid than felicitous; [renewed laughter:] but though various interpretations were placed upon it by both sides of the house, I don't think any interpretation arrived at contemplated the conclusion which was subsequently accomplished—namely, that the great offices of state in the new ministry were to be confided to the custody of half a dozen peers of the realm. [Cheers.] So far as we on this side of the house are concerned in the arrangement, if we took a partial view of it, we should be sufficiently satisfied. I hardly know that any arrangement could tend more to the political degradation of the party opposite. [Laughter.] When power was seized—I won't say in a spirit of rapacity, but certainly, as it was on that occasion, without any unnecessary delicacy [a laugh,

and "hear, hear,"]—when there were no great scruples as to the nature or the conduct of the opposition; and when, subsequently, the country found that the great liberal party were in office, and yet that in the opinion of the leaders of that great party there were not in that branch of the legislature which had brought them into power men from whose ranks they could select persons fitted to hold office, I think that must have been regarded as a slur upon the vote of want of confidence which had been passed upon their predecessors. [A laugh and cheers.] But there is something dearer to both sides than party triumph—namely, the character of the House of Commons. I am sure that every honorable gentleman in this house feels really sorry when anything takes place that humiliates the character of this house, or places it in a position not calculated to contribute towards preserving for it the confidence and support of the country. Believing that parliamentary government is practically impossible without two organized parties—that without them it would be the most contemptible and corrupt rule which could be devised—I am always willing to point out anything that may preserve the influence of either of the great parties in the state. The question with respect to the distribution of offices has arisen because, in consequence of the plan on which the present administration was formed, the principal offices of the state have necessarily been represented in this house by under-secretaries, or by members of the government bearing, perhaps, a different title, but holding similar rank. It was on more than one occasion the intention of gentlemen on both sides to advert to that condition of affairs as on the whole unsatisfactory, as tending to diminish the authority of this government, as calculated to greatly reduce its influence. I do not know that I should myself have interfered in the matter—though I intended to do so some weeks ago—had it not been for an expression of the noble lord at the head of the government, which opened my mind to a sense of the position that the house was fast coming to occupy.

When I offered some quite legitimate criticisms upon the conduct of a secretary of state who happened to sit in the House of Lords, the noble lord, not in a hurried manner, but with a most premeditated phrase, taunted me with having attacked "an absent man." [Cheers and laughter.] That opened to my mind what must be the consequence of our passing unnoticed the course which the government had plainly adopted in the distribution of political offices, and I saw clearly in what a situation members of the opposition would be placed who, bringing forward cases of great importance or urging inquiries of great interest, were always put in collision with gentlemen whose abilities we all recognize, who are frequently adequate to the offices they nominally hold, but who are obliged to encounter us upon questions which no one can properly treat who is not in the counsels of his sovereign, who is ignorant of the policy really pursued by the cabinet, and who cannot enter those engagements and make those representations which ministers of the crown alone can express. [Hear, hear.] But on that occasion I refrained from bringing the subject under your notice, because there had been for a considerable time impending over us a probable reconstruction of the government to a certain extent, occasioned by a course which I am sure is regretted by honorable gentlemen on both sides. It was daily expected that the Duke of Newcastle would quit public life, and it appeared to me that to bring forward the question of the distribution of offices at a moment when the Duke of Newcastle was still a minister might lead to observations with respect to him of a painful character. The Duke of Newcastle sat for a long time in this house, and he has always been respected. Perhaps, now that he has retired, I may be permitted to say, I am sure in no glozing language, that during twenty years of rather warm public life my relations of personal courtesy with the Duke of Newcastle have never terminated, and I think I may add that he withdraws with the reputation of a sedulous, able, and conscientious minister. [Cheers.] Well, the Duke of Newcastle quitted office, and then took place the

reconstruction of the ministry which was expected. It was not of so extensive a character as had been anticipated; on the contrary, it was extremely partial, and the first thought on reflection was that the subordinate members of the government who represented high offices of state in this house were not materially reduced in number. We had to reconsider the question, and then it was suddenly discovered that the state of affairs which before we had thought politically injurious was, in fact, flagrantly illegal. [A laugh.] The noble lord asked me the other night how it was the thing never occurred to me before. I hardly know any subject more happy for a *tu quoque*, but I shall resist the temptation, great though it be. [A laugh.] I remember reading somewhere of a great whig country member, who, in the last century, questioned the right of Lord George Germain to sit in this house. Lord North asked him why he had not mooted the point before, seeing that Lord George had been sitting here for a year. "Why, to tell the truth," replied Sir Joseph Mawbey, "it never occurred to me." When the noble lord with the blue riband made his inquiry nobody thought it was an answer to the point raised by Sir Joseph Mawbey, and so I am sure that to-night in discussing this question, which is one of great gravity, we shall not be met by observations of that kind, but shall address our minds to the merits of the case, in order to ascertain clearly the position in which we are placed. [Hear, hear.] At the outset I wish to direct attention to the state of the law upon the question. It may appear a very arrogant thing that I, who am a layman, should presume even to make a statement, much less to draw an inference, upon a subject so technical and professional; and I should, perhaps, have been daunted in this enterprise by the observations made by the attorney general some time ago, when he told us incidentally, in order to give a cue to the house, that the subject is most refined and complicated. There are some men who have refined and complicated minds, and there is nothing they touch that, under their magical manipulation, does not quickly become refined and complicated. [A laugh.] I would say to the attorney general, whose talents I always admire, that I think he is master in the art of refinement and complication. [Laughter.] But, notwithstanding his statement, I venture to say that the question is really very simple, and that any one who chooses to give his attention to it may understand it without being an attorney general or a Q. C.; and that if I do not make it in brief space as clear as crystal, it will be from a want of apprehension or a deficiency in the powers of expression on my part, and not from any fault of the house or the subject. The tenure of office in this country is mainly regulated by statute, and it is principally regulated, as far as this house is concerned, by an act passed in the reign of Queen Anne, with which I have no doubt honorable gentlemen are all familiar, [a laugh.] by name at least. A very remarkable act is that famous act of Queen Anne. About 1708 there was a strong parliamentary opinion, if not a public opinion, that there were sufficient placemen in the House of Commons, and a resolution was come to that the number should not be increased. An act was accordingly passed, which, to give a general description of its main feature, enacted that henceforth any one who accepted any office of profit in the service of the crown created after 1705, about three years before the passing of the act, should thereby become incapable of being elected a member of this house, or of sitting and voting here. The effect of that act may be put briefly before the house. When the act passed, Queen Anne had three secretaries of state and three under-secretaries. Suppose, the day after, Anne, as she had an undoubted right to do by her prerogative, had appointed a fourth secretary of state, and, consequently, a fourth under-secretary, both those offices would have been treated as new offices—offices, that is to say, created subsequently to 1705, and their holders would have been incapable of occupying seats in this house. Heavy penalties were attached to the violation of the statute; but it is quite unnecessary to touch upon that matter now, because the question of penalties has nothing

to do with this house. A very considerable time elapsed after 1708 before any fresh legislation took place affecting the seats of members of this house—I think seventy years passed away. Great events, great disasters, had occurred during that long interval. We had lost our American colonies; the country was in a state of great distress and despondency; and there arose, as always in England under such circumstances, a cry for administrative and economical reform. Mr. Burke, one of the greatest men who ever sat in this house, happened then to be a minister of state; and it fell to his lot to consider by what means the administration might be improved and economy effected. Mr. Burke afterwards, in the year 1782, in the reign of George III, brought forward that great bill, with which I am sure honorable gentlemen are perfectly acquainted—his bill for economical reform—and by that measure, among his other reductions and improvements, he abolished the third secretary of state, who was the secretary of state for the colonies. England having lost her colonies, the administrative reformers of those days naturally thought, if reduction was desirable, that there was no necessity for a colonial secretary, and in the act of Mr. Burke the colonial secretaryship is abolished, and all those offices dependent upon it.

The result of Mr. Burke's bill was this, that two secretaries of state were permitted to sit in the House of Commons, and two under-secretaries. Sir, that was the state of affairs which prevailed, as far as the distribution of offices with reference to the House of Commons was concerned, for another seventy years, including the whole of the great revolutionary war. Unquestionably in that period new secretaries of state were created, who, of course, appointed under-secretaries; but they were appointed, all of them, solely by the prerogative of the crown, not by statute, and none of them ever sat in the House of Commons. The honorable and learned attorney general appealed to the case of Mr. Bagott, but that case would entirely substantiate, if necessary, the statement that I am making. Mr. Bagott was a member of this house for Castle-raising, a borough which I suspect is now only to be found in schedule A. He was appointed under-secretary of state for foreign affairs. There were two under-secretaries then sitting in this house—one for the colonial and the other for the home department. And what did Mr. Bagott do? He immediately accepted the Chiltern Hundreds; [hear,] and the honorable and learned attorney general endeavors to frame an argument on that that he did not vacate his seat in consequence of accepting the office of an under-secretary of state. Yet I apprehend it is the common course of members of Parliament to accept the Chiltern Hundreds, even if they hold any other appointment than that to which the honorable and learned gentleman referred. But I ought to remind the house that in Mr. Burke's act of economical reform, which abolished the secretaryship of state and the dependent offices, there is a special proviso, that in case hereafter any office for the same or for a similar purpose is created, then to all interpretations, intents, and purposes it is to be considered what is called a new office—that is, an office subject to the provisions of the statute of Anne; [hear, hear,] and to the statute of Anne is attributable that distinction between old and new offices which once was very prevalent in political literature, and which may even now be found creeping into the statute-book. All offices created before 1705 are old; all created subsequently to that date are new offices. Well, whatever refinement the attorney general may found on the case of the retirement of Mr. Bagott from this house, I make him a present of it; for really it is not at all necessary to my argument, or to the clear case which we have before us. The honorable and learned gentleman will not deny that the invariable practice of Parliament was that only two secretaries of state and two under-secretaries of state could sit in this house. That he will not contradict. And so it went on till we come to the times with which we are perfectly familiar, in which we were all actors, and which form part of our recent experience. Two secretaries of state and two

under-secretaries might legally sit in the House of Commons. Then occurred the Crimean war, with its military disasters, followed by a strong expression of public opinion that there ought to be a more effective organization of our military departments. Then the noble lord, who ought to be most familiar with this question, for he was then prime minister, recommended this house to appoint a new secretary of state, who should be secretary of state for the department of war, and it was necessary in 1855 to bring in a bill, which was afterwards passed into law for that occasion. But now I request the house to mark this. Although there was not the slightest doubt from the language of Mr. Burke's act that only two secretaries of state could sit in this house, although that never was questioned for a moment, there had been doubts raised whether the terms of the act of economical reform were sufficiently precise to touch the under-secretaries; but the language was still so definite that it had never practically been infringed. There had been only two secretaries of state, but the lawyers knew of the doubts on the subject, and in the noble lord's bill—the bill brought in by his government, of course with his sanction, and, no doubt, with his intimate knowledge—it was thought advisable that the opportunity should be seized of removing all doubt on this point. If honorable gentlemen refer to that act they will find that a third secretary of state is at once made, and there is a recital that whereas doubts at some time have existed as to the number of secretaries of state who might sit in the House of Commons—that was, doubtless, a reference to Mr. Burke's bill—it is now decided that there shall be a new secretary of state under this act, and that three secretaries and three under-secretaries of state may sit in this house, and no more. [Hear, hear.] I hope that as far as I have gone the house really will understand this case. You have arrived at the period of the Crimean war. Well, the next great events in our history were the Indian mutiny and the expiration of the company's charter, necessitating the bringing in of a new India bill, which was to transfer to the immediate authority of the crown the government of those vast possessions. It fell to the lot of my noble friend near me, (Lord Stanley,) then president of the board of control, to introduce that act, and in deference to the resolutions of this house, upon which that bill was founded, the office of president of the board of control was converted into that of secretary of state for India, and with the power of appointing an under-secretary instead of the two joint secretaries of the board of control that previously existed. And by this act four secretaries of state became qualified to sit in this house, and four under-secretaries of state. I believe there is no person in this house who will question the accuracy of that position. There is no refinement here about the case of some half-forgotten gentleman who vacated his seat when made an under-secretary of state in the reign of King George; but here you have the present state of the law, which depends on specific statutes, that you yourselves advised and passed, and that have been carried in consequence of your own resolutions. This then being, I venture to say, the unquestioned and unquestionable state of the law at this moment, expressed in the statutes before me, that in the House of Commons four secretaries of state and four under-secretaries may sit, and no more, I must call the attention of the house to the strange fact that throughout this session of Parliament at least five under-secretaries of state have been sitting here. I have no doubt that on Friday night, if any discussion had occurred, it would have been necessary for me to mention in detail who those gentlemen are. I feel sure that in the interval we have become perfectly familiar with the subject. [A laugh.] But, perhaps, on a question of this kind, it is expedient, both in the resolutions which we may have to record and in the statements which we may have to make, that we should make our case complete, and therefore I shall mention who are the five under-secretaries of state who during this session have been sitting in this house. There is the under-secretary of state for the colonies, the right honorable member for the county of Louth, (Mr. C. Fortescue;) there is the honorable gentle-

man, the under-secretary of state for India, the member for Falmouth, (Mr. T. G. Baring;) there is the under-secretary of state for foreign affairs, the honorable member for Southwark, (Mr. Layard;) there has been during this session the under-secretary for the home department, late and still member for Merthyr-Tydvil, (Mr. H. A. Bruce,) whose fate we did not decide an hour ago, [a laugh:] and, lastly, there is the under-secretary of the war department, who is the member, or who supposes that he is the member, for North Lancashire. [Laughter.] The house will now, upon reflection, find that this is a question which it becomes themselves in the first instance to undertake. It is the duty of the house to see that their position is complete and correct. It is of the utmost importance that no person should sit or vote in this house who is not qualified for the exercise of those functions. And, sir, I don't think that I can place this matter, as to its importance and urgency, more completely before the house than by showing them how much may depend upon the materials of which this assembly is composed being of an authentic character.

I have on more than one occasion reminded the house of the important historical events and the equally important laws which have been shaped and passed by slight majorities, and even by casting votes. I know that gentlemen may in these days consider historical illustration to be of little value. I am not of that school. I do not believe that a popular assembly can maintain its authority unless it respects the example and experience of its predecessors. [Hear, hear.] What makes the House of Commons so influential in contradistinction to the popular assemblies of other countries is this, that when there is any great question of difficulty—of complication, as the attorney general would call it—the country feels that we are not solving it merely by the present thought and existing intelligence of the members of this house, but that we come down to its consideration fortified by precedent and bringing to bear upon it the accumulated wisdom of the great men who have preceded us. I need not go far to show how important it is that we should be most strict in seeing that no one votes in this house who has not a right to that office. There is no subject, for example, more important than a question of a vote of confidence. When the two great parties of this country meet with contending principles and with opposite policies, and challenge the decision of the House of Commons, the issue, it may be said, is almost of an awful character—because the very tone and temper of the policy of the country depend upon your vote. In my time there has happened a struggle of this kind; and there are few in modern parliamentary history more interesting or more important. It was the vote which brought Sir R. Peel to the helm in 1841. [Hear.] Considering the character of that eminent man, considering the measures he carried and brought forward, considering the influence of his career upon parties and events in this house, no one can look upon that as an ordinary parliamentary struggle. [Hear, hear.] And yet Sir Robert Peel was made minister of this country virtually by one vote. [Hear, hear.] Supposing there had been one or two under-secretaries of state on the treasury bench when a vote of want of confidence had been brought forward, perhaps by Sir Robert Peel himself, they would not have had the same opinion as Sir Robert Peel; they would have had more confidence in themselves than in Sir Robert Peel, [a laugh,] and they would naturally have voted accordingly. But what if after that discussion it had been discovered that these under-secretaries had no right to vote that night? See, therefore, what considerable consequence may depend upon our taking care that this house is properly constituted. But I need not go so far. I will take the present session as affording a most striking instance of the importance of our attention to this matter. Remember the division on the question of the yeomanry. Her Majesty's government thought it expedient to omit from the annual votes the sum necessary for calling out the yeomanry. An honorable friend of mine challenged by anticipation the propriety of that omission, and appealed to the

house. The question was really not of that limited character to which in the somewhat hurried discussion an attempt was made to narrow it. Some looked upon it merely as a matter of reduction or the reverse. I am myself in favor of reduction. I see with the utmost satisfaction the reductions which the government have made of late years, and I observe with equal satisfaction that the services of the country are not less efficient. [Hear, hear.] But the question of the yeomanry was of a peculiar character. Nothing seemed more inconsistent to me and to many others than that at a time when the country was expending so much money, thought, and energy in stimulating and maintaining the volunteer institution—one of the most satisfactory events of our time—we should without thought deal a great blow and discouragement to our only considerable force of volunteer cavalry. [Hear, hear.] That was the view which we on this side of the house took of the matter, and I understand that was the view entertained, though not in this house, yet in a place of considerable importance, by the noble lord at the head of the government. When the division was called we lost the policy which we believed to be sound, and which has since been adopted by the noble lord, by one vote. The motion was connected with the office of the secretary of state for war, and upon it the under-secretary for that department, representing the policy of the government, spoke with all the authority and influence which a person holding office must have on such a subject. But not only did he speak, he voted. We were defeated by one vote, and yet it turns out that at that very time the under-secretary who took that influential and decided part upon the question had no more right to speak—had no more right to sit in this house—had no more right to vote than the stranger who at this moment is passing over Westminster bridge. [Hear, hear.] The house will agree, therefore, that this is a subject which is not to be neglected. I regret that it has been neglected so long. The noble viscount seems to think it a surprising thing that I should not have called attention to this matter before. I consider myself that the house generally is, in some degree, at fault. I am perfectly ready to take my share of blame, and even more. Ours has been a sin of omission; but as regards the government, theirs has been not only a sin of omission, but of commission. [Hear, hear.] We have a right to expect from the government, who have the distribution of patronage, that they should consider well how they distribute it. I say, with the greatest respect to the noble lord at the head of the government, that he is the individual to whom we look with confidence in this matter; and perhaps it is the unlimited confidence reposed in the noble lord which has got the house into this scrape. It is not merely as the chief minister of the crown that he sits on that bench; it is not merely to pass measures which he deems necessary to the welfare of the country, not merely to attend to the interests of his party that he sits there. He occupies a post second only in dignity and honor to that of chief minister of the crown, that of leader of the House of Commons; and we have a right to expect from one who is the champion of our rights and the trustee of our honor, whose first duty it is to see that the numbers of the house are complete; and if incomplete only in consequence of the decision of the house itself, that he should take care that no one mixes in the deliberations and in the decisions of this house who is not justified by law in sitting here. [Hear, hear.] I submit to the noble lord, as the individual in this house who, if any one, is to be visited with its displeasure, that his own conduct rather requires explanation than that he should taunt those opposite to him, because they have discovered, however late, the critical position in which the house is placed. I wish to suggest to the house a course which, I think, it ought to take. The position in which we find ourselves is one which deeply concerns the house. It is the duty of the house to set itself right without loss of time. We ought to do that in a manner which cannot be mistaken, which is becoming, defined, and decisive, but which, so far as expression of opinion is concerned, shall not in any way directly make any

reflection upon the conduct of any member. I have no wish to shrink from the responsibility which every gentleman to a certain extent must have incurred by this unprecedented state of affairs; but at the same time it is absolutely necessary that we should take a constitutional course, and that, having found the critical position in which we are placed, we should put on record the opinion of this house in a manner that cannot be mistaken, so that hereafter an under-secretary of state shall not be appointed by a future minister without due examination and reflection, and that there shall be a complete record of what has illegally been done, and of the remedy which the House of Commons proposed under the circumstances. It is with that feeling that I shall propose this resolution, which I sincerely trust I may induce the house unanimously to adopt. It is in these words: "Notice having been taken by a member of this house that more than four under-secretaries of state have been sitting and voting in this house at the same time during the present session—Resolved, that the provisions of the 21st and 22d of Victoria, cap. 106, sec. 4, have been violated, and that the seat of the fifth under-secretary of state has been and is thereby vacated." [Hear, hear.]

Lord PALMERSTON. There are some things stated by the right honorable gentleman in which I entirely agree, and there are some things which afford a remarkable comment upon the progress of constitutional principles and government in this house. The right honorable gentleman reminded us that whereas in the early part of the last century there was a jealousy in the House of Commons as to the sitting in it of persons holding high office in the state, now, on the contrary, by the great increase in the political powers which by the progress of events this house has acquired, there is an opposite feeling and desire that persons holding important offices in the state should, within certain limits at all events, have seats in this house, and be personally responsible to the House of Commons. That, I think, is a significant commentary upon the great development of the powers of this house between the period to which he referred and that in which we are now speaking. The right honorable gentleman said that there ought to be in this house the full number of secretaries of state which the law allows—namely, four—and he finds fault with those who framed the present government for having put an undue proportion of the great officers of the government in the House of Lords, and not a due proportion in this house. The right honorable gentleman, I think, was speaking, when he said that, without having sufficiently attended to the circumstances of the case. When the present government was formed it consisted of fifteen cabinet ministers, of whom ten were in this house and five in the other House of Parliament. [Hear, hear.] Four secretaries of state were included in that number of ten. [Hear.] We recollect that the chiefs of the war department, the foreign office, the home office, and the India office were all members of the House of Commons. Then came the unfortunate illness of Mr. Sidney Herbert, then secretary for the war department, which led to his removal to the House of Lords, in the hope—which, unfortunately, proved vain—that, by going to a house where less attendance was required, the afflicting disease which weighed upon him might be remedied or mitigated. Lord Herbert unfortunately fell a victim to disease. When that was the case, it gave the opportunity of bringing back the war department in the person of Sir George Lewis; we therefore restored that secretary of state who had been removed by the visitation of illness. Then, when my noble friend Lord Russell was removed to the House of Lords—the dignity of the peerage having been conferred upon him as a mark and reward of his long services, and also from the circumstance that his health had suffered materially by his labors in the House of Commons—we had still three secretaries of state in this house. Then Sir George Lewis was unhappily taken from us, and the peculiar circumstances connected with the interests of the army led to our placing that department under the care of Lord De Grey, who had long been

under-secretary of that department, and had acquired a knowledge of all the improvements which Lord Herbert had so successfully carried into effect, or had been anxious to carry into effect, during his lifetime. Well, but not only had we, when the government was formed, ten cabinet ministers in this house, but among them was the person who held the office which I cannot pretend worthily to fill, which, in the government with which the right honorable gentleman was connected, was held by Lord Derby in the House of Peers; and, therefore, I maintain that if you compare the distribution of cabinet offices in the present government with that in Lord Derby's government, you will find that the House of Commons had its proper share of those members who occupied important positions in the administration of the country. [Hear, hear.] Well, I cannot undertake to go into those legal questions which the right honorable gentleman dealt with, because I am unwilling to trespass on those grounds which my honorable and learned friend the attorney general, with so much greater knowledge and ability, and without complication, [a laugh] will very clearly explain to the right honorable gentleman and the house. The right honorable gentleman maintains that one of the five under-secretaries must have vacated his seat; that question will be fully discussed by my honorable and learned friend. But, sir, I am quite ready to admit that we have unintentionally, and by oversight, done that which the law does not authorize. [Hear.] I must take blame to myself, because I quite agree with the right honorable gentleman, that, holding the office I do, having to originate the different appointments, I ought, perhaps, to have inquired more deeply and minutely into the state of the law. I certainly was under the impression that we were doing that which the law authorized; that we might have five under-secretaries in this house. It turns out, however, on looking into the act of Parliament, that we were wrong, and therefore I frankly admit that the right honorable gentleman or his learned friend, who I believe discovered the error, had a keener sight than we and the rest of the house possessed. But at the same time, although I admit we were wrong—unintentionally wrong—the right honorable gentleman and those who sit by him must share with us in the blame. ["Hear, hear," and a laugh.] Because, what is the natural occupation of an opposition? [Cheers.] What are they there for [a laugh] if not to find out when a mistake has been made? [Cheers.] Their business is to watch with keen eyes the conduct of the government they oppose—to trip them up even before they fall [cheers and laughter]—at all events, if they stumble to call upon them to set things right again. That is the peculiar function of the opposition—if anything be wrong, or blamable, or liable to criticism in the conduct of the government. I must say, therefore, we have a right to complain of the right honorable gentleman and those who sit by him [a laugh] that they have not previously announced that since April, last year, we have gone on in a course which they might have known was wrong in point of law. ["Hear," and a laugh.] They have laid a trap for us that I maintain is not fair in the course of a parliamentary opposition. [A laugh.] But I repeat, we candidly and frankly admit that we have done that which the law did not authorize us to do. I don't think that what the right honorable gentleman proposes would be sufficient for the purpose, because when a law has been broken somebody must be liable to some penalty or other. Who is the person on whom the penalty would fall I am not prepared to say, nor what the penalty would be. I apprehend there is no penalty attached by the act to either of the five secretaries of state who, in excess of the law, has sat in the house; but where there is no penalty attached by the law it becomes a misdemeanor, and the person would be liable, of course, to the penalties of a misdemeanor. Well, my honorable and learned friend will have to consider who the parties are who incur the penalty, and what we should propose as a measure of security to them, whoever they may be, and also, as a more effectual record than the proposal of the right honorable gentleman, is that a bill of indemnity should be brought in

which should record that the law has been violated, and by that record it would place it beyond all question that nobody henceforward should do the same thing. The illegal state of things has ceased, because, by the acceptance by my honorable friend, the under-secretary for the home department, of the office resigned, as I sincerely regret, by my right honorable friend, who was the vice president of the committee of privy council for education, the honorable member for Methyr Tydvil has vacated office as under-secretary of state, and there are now only four under-secretaries in the house, which is the proper number. We are now, therefore, within the law, and it is our intention to remain so. [Hear, hear.] But we don't admit that part of the resolution of the right honorable gentleman which asserts that the seat of any of the five under-secretaries is vacated. That is a question which my honorable and learned friend will be more able to argue than I can. But that is our opinion, and therefore independently of the circumstance that we don't think the resolution of the right honorable gentleman covers the case as a bill of indemnity would, and because it makes an assertion we are not prepared to agree to, I hope the right honorable gentleman will agree to a bill of indemnity. We take all the responsibility on ourselves. We freely admit we ought to have looked more accurately into the matter. I certainly should have done so if I had entertained any doubt, and it was only because I thought we were within the law that the error was committed. [Hear, hear.]

Mr. Walpole and the attorney general rose together, but the call being loudly for the latter, the former gave way.

The ATTORNEY GENERAL. It would have given me much pleasure to hear my right honorable and learned friend the member for Cambridge University before addressing the house on this subject, since I am sure we should all have derived benefit from any observations he would make, and I shall regret if, following me, he should make observations I shall not have the opportunity of answering. But I take it to be the wish of the house that I should redeem the promise made by my noble friend at the head of the government, and I have no difficulty in doing so. The right honorable gentleman, I think, attributed to me a statement which I don't recollect to have made, or, if I did, I used the expression in a different sense from that he placed upon it. He says that I represented this as a refined and complicated question, on which the house would have a difficulty in arriving at a clear understanding. But it will be necessary to correct several errors of no inconsiderable importance into which the right honorable gentleman fell with reference to the various acts of Parliament bearing on this question. He started with a fundamental and radical error. He has misunderstood altogether the effect of the act of Queen Anne, passed in 1707, which he supposes to have had the effect of making it impossible after that act passed for more than three secretaries of state and three under-secretaries to sit in this house. This is an entire mistake of the right honorable gentleman. The act of Queen Anne had no operation whatever on the right of any under-secretary to sit in this house, and nothing is more easy than to prove the entire fallacy of his fundamental proposition. The act of Queen Anne said this—that persons to be appointed to new offices after 1705—not all new offices, but new offices under the crown—should be ineligible and incapable of sitting or voting in Parliament. The right honorable gentleman does not seem to have had his attention called to the fact that although the clause absolutely disqualifying certain persons from seats in the House of Commons relates only to new offices, the clause which regulates the practice and law of the house as to persons vacating seats on the acceptance of office applies to old as well as to new offices held under the crown. The 26th section is to the effect that if any person, being a member of the House of Commons, should accept of any place of profit from the crown, his election should be deemed void, and there should be a new election, as if in consequence of a vacancy by death, the member in question being, however, capable of re-

election. Upon that clause rests the practice of members when taking office in the government resigning their seats and going down to their constituencies to ask for re-election. Consequently, if an under-secretaryship of state is an office of profit under the crown, then each of the under-secretaries who accepted office from the date of the statute of Anne to the present time ought thereupon to have vacated his seat, but not one of them ever did so. [Hear, hear.] I appeal to you, sir, whether it is not the notorious and universal practice of the house that a member on accepting the office of under-secretary of state does not vacate his seat and has not to be re-elected? Therefore the uniform practice of the house, which is the best commentary on the meaning of the act, proclaims distinctly that an under-secretaryship of state is not an office of profit under the crown within the scope of the act, whether created before or after the passing of the statute. What is the reason of that? It is that an under-secretary of state is not appointed by the crown, but by a secretary of state. Thus the act of Anne has no more to do with the matter than any other act in the statute-book. [Hear, hear.] Then the right honorable gentleman went on to say that there was an interval without change which lasted till we came to Mr. Burke's bill for economical reform, in 1782. The right honorable gentleman, however, either from taking a different view of the statute from what I do, or from some other reason which it is not for me to divine, passed over an extremely material statute on this subject passed in the 15th year of George II, 1742. For the purpose of further limiting and reducing the number of officers capable of sitting in the house, that act provided that deputies and clerks in the offices of the government, including those of the principal secretaries of state, should not be capable of sitting in the House of Commons; but in order to make it perfectly clear that this was not intended to interfere with the eligibility of an under-secretary of state to be a member, there was a proviso that nothing in the act should extend or apply to "the under-secretaries to any of his Majesty's principal secretaries of state." Next came Mr. Burke's act; and there again the right honorable gentleman contrived to make out his argument by putting into the act what was very material, but what was not really there. It is true that the act abolished the third or colonial secretaryship, and declared that if it were re-established it should be reckoned a new office; but the act did not say one word as to the under-secretaryships. It left the latter offices as they were before. I need not remind the right honorable gentleman that the division of the business of the secretaries of state into departments is a matter which the law knows nothing about. On that point the acts of Parliament are entirely silent, and no restriction is placed on the number of under-secretaries whom the secretaries may in their discretion think it necessary to appoint. The only acts which deal with the subject at all are that of 1855, when the fourth secretary of state—for war—was established, and that of 1858, on the appointment of an additional secretary of state for India. In using the word "established," I do not mean that these acts created the new secretaryships. They recognized the power of the crown to appoint as many secretaries of state and the power of the secretaries of state to appoint as many under-secretaries as are deemed fit and proper; but they also limited the number of under-secretaries, as of secretaries, who might at one and the same time sit in the house. By the former act it was provided that any three of her Majesty's principal secretaries of state and any three of the under-secretaries might sit and vote in the House of Commons at the same time, and by the latter the number was raised to four secretaries and four under-secretaries. We ought to consider how the matter stands, not only in regard to the latest act itself, but in comparison with the way in which Parliament has dealt with the capacity of the holders of particular offices for the functions of members. The act does not specify that the secretaries or under-secretaries of certain departments of the state shall be entitled to sit in the house, but only limits the *maximum* number of persons holding particular offices who shall at the same time be allowed to sit as members.

Now, I should be glad to know on which of the officers in question the act throws the responsibility of violating the provision in regard to the number entitled to be members at the same time. It is easy for the right honorable gentleman to try to foist the responsibility on the person who last entered office, and to say, what the act certainly does not say, that he should be held on accepting office to have vacated his seat. But it is the sitting of five of these officers at one time, and not the sitting of one or another of them individually, which is the *corpus delicti*. [Hear.] I wish the house to see the absurd consequences that would follow if it could be maintained that you are to fasten upon any one of the five under-secretaries and to say that he has vacated his seat. It may be that in this case you may be able to identify the order of time in which five persons holding office were appointed, but it may happen that you may not always have the opportunity. Supposing that persons who are not members of this house are appointed under-secretaries during a dissolution, when, of course, nothing takes place. A general election follows—two, three, or more of those gentlemen are simultaneously elected. Which of them has vacated his seat? Of course if Parliament had meant that a member of this house should lose his *status* as such, it would not have left the law in a state which was open to doubts. So if two under-secretaries simultaneously accepted office, the act does not say that one or either of them, or all, shall vacate their seats. It only says that not more than a certain number shall sit in this house at one time. I promised that I would state what I found to be the language of other acts of Parliament which bear upon this or analogous questions. I find that when Parliament intended to create ineligibility to sit in this house, it used language appropriate for that purpose. Thus, in the 6th of Anne, while in one clause it declares that a person who accepts any office shall always be incapable of sitting or voting in Parliament, yet by a subsequent clause it says that if a person, being a member of the house, accept any office, his election shall be declared void, and a new writ shall issue. There the process is marked out. A member accepting office is incapable of sitting or of voting; the former election is declared void, and a new writ is issued. Exactly the same thing is done by the act which prevents contractors from sitting in the house—the 22d of George III. There are other acts which do not go on to say that the election shall be void and a new writ be issued, but, to mark the intentions of Parliament, persons holding particular offices were declared to be incapable of being elected or of sitting or voting in the House of Commons. Such is the 15 George II, which says the clerks in certain public offices shall not be capable of being elected or of sitting or voting in this house. Such is the act passed in the 10th year of George IV, excluding persons holding appointments under the East India Company; and even in the Indian council act itself, when it was intended to make the tenure of a particular office, or the acceptance of it, a personal incapacity to sit as a member of this house, it was enacted that the members of the council of India should not be capable of voting or sitting in Parliament. That incapacity is attached to the office and to the person of the holder of it. There is not a single act intending such a thing in which it is not provided for. Now, I take it that if there be a well-settled principle of constitutional law, it is that you should never infer, without strong necessity, from the terms of an act of Parliament, disabilities, incapacities, or penalties, [hear, hear;] that you ought not to go beyond the language if the object of the act can be satisfied by adhering to it and keeping within it. It remains for me to endeavor to satisfy the house whether there are upon the statute-book ample and sufficient reasons for giving effect to these words, that not more than four under-secretaries should sit as members of this house at the same time, without implying what the act does not say, that some one or other of them, to be arbitrarily selected by the house, should vacate his seat, which under other circumstances he would not do. The only acts which contain the same or similar words are

those which show that the legislature contemplated the perfect consistency of a man retaining his *status* as a member of this house, and his being placed under disabilities dependent upon varying circumstances of voting and sitting. The act of Charles II, well known as the oaths act, is one in point. That act has been rendered familiar to the house by the cases of Mr. D. O'Connell and of Mr. Salomons. It prescribes that no member shall vote in the House of Commons or sit there during a debate until he shall have taken the oaths. A member cannot sit upon these benches until he has complied with the requirement; but his *status* as a member remains unaffected, although his power of sitting and voting is in abeyance. That is the act of which the language most nearly approaches that of the statute we are considering, and let not the house forget that it is the earliest of all the statutes upon the subject. Exactly the same thing, in more forcible terms, is done in the act which excludes bankrupts from the house. When a member becomes bankrupt, the act says he shall remain during twelve months incapable of sitting or voting, unless the commission be superseded or his debts be paid in full; and then, if at the end of twelve months certificate was made to the speaker that he continued a bankrupt, the act went on to declare that his election shall become void and a new writ shall issue. It is quite plain, therefore, that the legislature recognizes a temporary incapacity of sitting and voting consistent with the continued *status* of a member of Parliament. Upon what principle, then, are we to give to the same words in this act affecting under-secretaries different effect? Every reason which induces Parliament to preserve the *status* of members of this house to persons who hesitate to take the oath, but who may do so at any time, affords to bankrupts the opportunity of ridding themselves of the incapacity. Surely all these reasons apply *a fortiori* to the case of under-secretaries. The public convenience may make it expedient to appoint a member of this house. It may require some time to make arrangements, and in the mean time he does not resume his seat after appointment, and thus the presence of a superfluous under-secretary, the intention and the language of the act of Parliament, is satisfied, and but for some oversight, as in the present instance, arrangements would easily be made to limit the number of under-secretaries in this house. There is nothing in the nature of such a case as makes it necessary that any person should vacate his seat because there happened to be four persons already in the house holding similar appointments. It is to be presumed that when the attention of the government is directed to the subject they will take care to make the necessary arrangements. While the legislature has carefully defined the *maximum* number of under-secretaries who shall sit at the same time as members of this house, it does not go on to say that the election of one or all shall be void if that number be exceeded, nor that any of them shall be incapable of voting or sitting, so that I apprehend upon all legal principles of construction you cannot hold that a seat has become vacant, although undoubtedly the government is open to any censure which the house may think fit to pass upon them for not adverting to the terms of a recent act of Parliament which limited the number of under-secretaries sitting in this house. When the attention of the government was called to this subject no time was lost by them in making arrangements to comply with the terms of that act of Parliament. Of course the responsibility of this oversight rests with the government; but the very fact that honorable and right honorable gentlemen opposite have not before discovered it, and that it escaped you, sir, with all your vigilance, affords some explanation and excuse for the fact that the attention of the government was not directed to it. I apprehend, therefore, that the house will not allow their notice of this matter to travel beyond the necessity of the case; and I submit that, although the former part of the resolution moved by the right honorable gentleman is unquestionably true, and we cannot object that it should be placed upon record, yet the latter part of the resolution declaring vacant the seat of—I suppose the

right honorable gentleman means the noble lord the member for North Lancashire, because he was the person last appointed—is entirely unwarranted by the act of Parliament, is not supported by any legitimate or necessary inference arising from any of the former acts, and is one, therefore, which it would not become this house to adopt. [Hear, hear.]

MR. WALPOLE. The latter part of the observations of the attorney general seems to imply that some censure is cast upon the government by the terms of the resolution. Now I thought my right honorable friend (Mr. Disraeli) had most carefully avoided casting any censure upon the government, and that he had said that the whole house were more or less to blame for not having noticed this illegality, adopting, in fact, the humorous observation of the noble viscount as applicable here—"Brother, brother, we are both in the wrong." But this is a point which concerns the constitution of the house, and we ought to take care to put upon record something which will prevent a similar illegality or excess of authority from happening again. The noble viscount seemed to think that this could be done by simply bringing in a bill of indemnity. Now, I take leave to doubt whether that is the way in which the house has ever set its records right. In such cases as this the house has always taken care to put some resolution upon the journals by which it expresses its opinion upon a matter affecting so materially as this does the privileges of its members and its own constitution. [Hear, hear.] The motion of my right honorable friend, therefore, appears to me exactly to meet the necessity of the case. The attorney general seems to concur in the first part of the resolution as to the violation of the act of Parliament, and demurs only to the latter part of it. But I must take exception to the conclusions at which he arrived in the course of his very learned but rather refined argument. I must say that I do not think a refined argument is necessary here. If the attorney general will only bear two things in mind he will see that the question is plainer than he has represented it as being. The first thing for him to bear in mind is, that the act of Anne must be taken in conjunction with the act of the Queen; and the second is, that the words of the statute of Anne are not stronger as showing that the seat is to be vacated than the words of the later statute. [Hear, hear.] Whatever construction you put upon the one you must put upon the other—at least I think so. Suppose the blot had been hit the moment that the noble lord the under-secretary for war had been appointed to his office. Will any one deny that any honorable member might have immediately moved a new writ for the election of a new member for the place represented by the noble lord? [Hear, hear.] If not, you allow the government to appoint to offices without the checks imposed by the legislature; and I cannot believe that the house would assent to a construction so contrary to all the privileges of Parliament. In attempting to correct the speech of my right honorable friend respecting the statute of Anne, the attorney general, I think, himself fell into an inadvertence. The two sections which relate to this subject are the 25th and the 26th—the first relating to new and the second to old offices. The 25th section declares that any person taking a new office since 1705 is incapable of being elected and incapable of sitting and voting. The 26th section has not got the word "new" office; but in order to give full effect to it you must interpret the section as relating to old offices, otherwise you would repeal the 25th section. Bearing in mind that distinction with regard to old offices, namely, offices created before 1705, the seat must be vacated, but the member accepting the office may be re-elected. As to new offices, under section 25 the seat is vacated, but the member is not re-eligible. This principle runs through all your statute law, and all subsequent statutes creating new secretaries and under-secretaries of state are so many exemptions from the full operation of the statute of Anne. That exemption, however, can only extend as far as the words go, and unless it applies to five secretaries and five under-secretaries of state, the office referred to is still a new one, created since 1705, and therefore subject to

the ineligibility provided for in the statute of Anne. As to the act of George II, it really confirms the view taken by my right honorable friend. That was a further disqualifying statute. Its very preamble and title show that it is a statute making more persons ineligible than were eligible before; and then comes a proviso extending the exemptions to any under-secretary of a secretary of state. Does the exemption apply to any under-secretary of state then or thereafter to be created, or does it apply to all? [The attorney general.—I have no doubt whatever that it does.] Will he show me any authority for that position? I contend that it does not give the benefit of the exemption to all under-secretaries, or otherwise you would be giving power to create new offices without number, by which the house might be inundated, although the legislature has said that you shall not have beyond a certain number. The 2d section of the statute of George III, having done away with the third secretary of state, says in the strongest possible words that the appointment of any future third secretary of state, by whatever name he is called, is to be considered a new office. What does that mean? Why, that it is to be considered a new office according to the statute of Anne. [Hear, hear.] The third secretary of state was therefore rendered ineligible by the statute of Anne, and the under-secretary would be in the same position. Then comes the act relating to the secretary for war and the secretary for India, which gives the benefit of the exemption to the third and fourth secretaries of state, but not to the fifth. There is no difference between the disqualification of the fifth secretary of state and the fifth under-secretary, for the words of the act are precisely the same in respect of both those offices. I do not see how the attorney general can say that the under-secretary is not the holder of a new office, equally disqualified with the secretary of state from sitting in Parliament. My honorable and learned friend has quoted two acts relating to bankruptcy and to the admission of Baron Rothschild. The bankruptcy act is no doubt an enabling act, giving to members a limited time within which to obtain their certificates and sit again as members of this house. By that act it was provided, in the case of members becoming bankrupts, that at the end of twelve months after the declaration of the bankruptcy, the speaker must be certified of the fact, and the election of such members then became void, unless the fiat were superseded, or the creditors were paid in full. That being so, I ask my honorable and learned friend to consider whether, supposing the law vacates the seat when a member is declared incapable of sitting and voting, the law does not also vacate the seat when it says he shall not sit and vote? Could my honorable friend point out the distinction between those two propositions? [Hear, hear.] If not, it appears to me that the case is established completely; and for the sake of the regularity of our proceedings, and in order to preserve the constitution of the house, as it was intended by the legislature when it passed the law limiting the number of members holding office to so many and no more, we have nothing to do but to declare, at once, not only that the law has been violated, but that the seat has been and is vacated; and then, I think, we shall set ourselves right. [Hear, hear.] The question arises not only whether the noble lord, the under-secretary for war, has been guilty of a misdemeanor, for which, I understand, you purpose to bring in a bill of indemnity, but whether he has not also subjected himself to the penalty of £500. The bill of indemnity should extend to that and to everything. [The attorney-general.—The bill will include all penalties.] Nevertheless, if the under-secretary for war continues to sit here and vote, and without vacating his seat, the question is, whether he is not still guilty of a misdemeanor, and still liable to penalties? My own belief is that that is a very doubtful point; and, if so, I cannot conceive why the government should object to set forth the matter fully on the records of the house. The noble lord, the under-secretary for war, would then go to his constituents, and I hope he would soon be returned to the house; but the house is bound to take notice that a member has been

sitting here who ought not to have sat here, and who might, by his vote, have decided some question before the house. If this is the proper construction of the act of Parliament, we must take the consequence of our inadvertence in not setting the matter right at once, and we must now deal with the circumstance as it would have been dealt with if taken notice of at the proper time; but for the house to adopt the proposition that a member, holding an office which he cannot hold, is to continue to sit and vote in the house as long as the government and the member choose that he shall hold the office, would be, I think, a course detrimental to the privileges of the house, and therefore I will support the motion of my right honorable friend. [Hear, hear.]

Sir G. GREY.—It is very desirable that the house should come to some satisfactory decision on the matter involved in this discussion. We have heard the statements of the attorney general and of the right honorable gentleman opposite, and the government have considered the question very fully since notice was taken of the circumstance which has given rise to the present debate. They have had very high legal opinions confirming the opinion of the attorney general that the seat is not vacant, but that an error has been committed by the fifth under-secretary being in this house. Under the circumstances I would suggest that we should avoid committing ourselves by any decision in this house, either to the proposition that the seat is actually vacant—for that may be wrong, and, if so, it is a serious constitutional error—or to the counter-proposition that it is not vacant. After what has passed in debate it appears to the government to be the proper course that, in accordance with what has been done on former occasions, whenever a doubt arose whether the acceptance of an office involved the loss of a seat, a select committee shall be appointed to report their opinion on the point. [Hear, hear.] I will mention two instances when this course was adopted within my recollection. One was the case of Mr. Wynne, than whom there could not be a man with greater constitutional knowledge. Having accepted an office which seemingly involved the loss of his seat, he himself concurred in the appointment of a select committee to consider the question. At a later period Mr. D. W. Harvey accepted an office which led to a doubt whether his seat was vacated, and the house, abstaining from committing itself to any declaration of opinion, referred the matter to the consideration of a select committee. I might refer to more cases of an analogous nature, and I therefore think that, without committing ourselves to any opinion—for if we do we may be establishing a bad constitutional precedent—we should adopt the course of referring the matter to a select committee. [Hear, hear.] Consequently I propose as an amendment that the latter part of the motion declaring that the seat is vacant should be omitted, and that there should be substituted instead thereof the words, "That a select committee be appointed to inquire whether the under-secretary of state last appointed to that office has thereby vacated his seat." At the same time, the bill of indemnity will be proceeded with, because that is a distinct question. It will be proposed in general terms, exempting those who have subjected themselves to penalties from those consequences, and it will also stand as a permanent parliamentary record of the fact which has occurred. [Hear, hear.]

Mr. DISRAELI.—My opinion is that it is desirable on such a subject that we should not arrive at a decision which might have the appearance of anything approaching to the character of party spirit; [hear, hear;] but at the same time it is important that the house should not act in a timid and hesitating manner. [Hear, hear.] I have indicated the line which I think the house ought to take, and the government in a very great degree adopt it. They acknowledge that there has been a violation of the law, and the only point on which they hesitate is whether the seat of the last appointed under-secretary is vacant. I myself should not object on the whole to the amendment, but there are one or two points on which we ought to have a clear understanding with the government. I myself

am indisposed to agree to the suggestion proposed by the right honorable baronet, unless it is clearly understood that the bill of indemnity shall not be introduced until the select committee have come to a decision on this point. If there should be any doubt as to the other under-secretaries, they ought not to take part in our deliberations and divisions until the question has been settled with certainty. There ought to be an understanding before we agree to the amendment that the bill of indemnity is not to be introduced until the committee have come to a decision. [Hear, hear.]

Mr. AYRTON said he was glad that the home secretary had moved his amendment, because the house ought not to come to a decision affecting the seat of a member until he had had an opportunity of being heard by counsel before the committee. The right honorable gentleman (Mr. Walpole) had raised a question of very great difficulty and importance. The right honorable gentleman said that the statutes spoke of the secretaries and under-secretaries in the same language. The effect of the construction put upon the statutes by the right honorable gentleman might be not merely that the fifth under-secretary must vacate his seat, but that all the under-secretaries holding new offices might be equally subject to re-election. That was a reason why the house should proceed with great caution, because the later statutes did not declare that the new under-secretaryships were not new offices. He doubted, after hearing the right honorable gentleman, whether the reference to the committee was quite large enough, and it might therefore be desirable that words should be added so that no doubt might arise herein.

Sir F. KELLY did not anticipate any difficulty on this point, although care should be taken in regard to the form in which the reference was made to the committee. The question raised to-night was one of the most important constitutional points that had ever arisen in the house. If the reference made to the committee was clear and unambiguous, so far as it regarded the seat of the noble lord the under-secretary for war, he, for one, should be perfectly content.

Lord PALMERSTON.—With reference to what has been said by the right honorable gentleman about the bill of indemnity, I have no objection to postpone that until after the committee has reported.

The resolution, as amended, was then agreed to.

Mr. Adams to Mr. Seward.

No. 663.]

LEGATION OF THE UNITED STATES,

London, April 21, 1864.

SIR: I should have used the information contained in your despatch No. 901, of the 5th instant, had it not been that the question involved in the position of the blockade breakers has again been changed by the later measures adopted at Richmond. It seems now that there can be no remaining doubt that every vessel engaged in blockade-running must consent to be, at the same time, at the service of the enemy to aid him in carrying on the war.

I transmit herewith copies of two letters which have passed between Lord Russell and myself on this subject.

It has been stated in the newspapers, I know not by what authority, that the attorney general has given an opinion that any person engaged as a partner of the company proposed in the prospectus of the Commercial Company makes himself liable to prosecution under the enlistment act. I hear likewise, but from a private source, that the project has been abandoned. The same reasoning which applies to them appears to be valid against all private parties consenting to trade on the conditions prescribed by the same regulations.

On a full review of the correspondence as it stands, it does not seem to me

advisable just now to interpose a variation from the positions as they have been actually taken. Should any change take place, however, admitting of an opportunity, it will be easy to suggest the qualified proposition of the Secretary of the Navy, of the propriety of which there can be no question. No such hypothesis as that on which it rests seems, under present circumstances, to be admissible.

I have the honor to be, sir, your obedient servant.

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD, &c., &c., &c.

[Enclosures.]

1. Lord Russell to Mr. Adams, April 11, 1864.

2. Mr. Adams to Lord Russell, April 16, 1864.

Lord Russell to Mr. Adams.

FOREIGN OFFICE, *April 11, 1864.*

SIR: I should not have thought it necessary to prolong the correspondence which has passed between us in regard to the treatment of British subjects found on board the vessels captured in attempting to run the blockade, had it not been for the passage in your note of the 15th ultimo in which you say, "For whereas in common cases it is the duty of the captor to presume the parties to be neutrals, by the new element now introduced it becomes his duty to presume them to be guilty until they can show the contrary."

I feel it incumbent upon me to say, that if the meaning of this passage be that captured British vessels or their cargoes are generally to be treated, henceforth, on a different footing from that on which, by international law, all neutrals are placed—that is, if they are to be all presumed, in the first instance, to be engaged in the enemy's service, and to have thrown on them the burden of proving the contrary, her Majesty's government could only regard such conduct as a violation of international law, to which they could not in any way consent. Her Majesty's government must therefore protest against the adoption of such a course.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,

London, April 16, 1864.

MY LORD: I have the honor to acknowledge the reception of your note of the 11th instant, taking exception to a passage in mine of the 15th ultimo.

I have carefully re-examined the circumstances connected with the proposition objected to, with the care which is customary with me when I find myself so unfortunate as to differ with your lordship, but I regret to confess my inability to arrive at any varied conclusion.

In further confirmation of the position taken, I now have the honor to trans-

mit to you copies of certain papers which have lately come into my possession. These consist of a printed paper purporting to be an act passed by the insurgent authorities at Richmond, "to provide for the public defence," and another called "official regulations to carry into effect the aforesaid act." Inasmuch as these are found in a newspaper printed in London, and avowed to be in the interest of the insurgents, and entitled "confederate official documents," I presume there can be no question of their genuineness.

I pray your lordship's particular attention to the express condition exacted from all vessels engaged in trade with the insurgent ports, that one-half of the tonnage of each vessel may be employed by the so-called government for its own use both on the outward and homeward voyage.

In other words, the rebel authority insists upon the right to convey, on its own account, under the shelter of a neutral flag, the means to retain its resistance to the United States, to the extent of at least one-half of the capacity of every vessel employed in the trade. This is a fact brought home to the knowledge of every person engaged in it, by the necessity of giving bonds for the faithful execution of the condition. Concurrently with this, I ask your lordship's attention to another paper, being an exact copy of a private and confidential circular which has been lately issued by parties well known in London. The object of this scheme is obviously concerted action to carry into full effect the purposes contemplated in the regulations aforesaid, to wit: to furnish facilities from this kingdom to the rebel authorities for transporting, on their own account, under the flag of Great Britain, supplies to enable them to continue the war, on the one side, and the commodities with which to pay for them, on the other.

I cannot avoid the conclusion that this proceeding, taken in all its parts, must be regarded by my government as placing British subjects and British ships engaged in this trade in the category of allies and servants of the insurgents; and inasmuch as no persons appear to be permitted to be engaged in it but those who comply with the conditions, it necessarily follows that all must be considered as enemies, and liable to be treated accordingly.

It is proper, however, for me here to observe, that I have made the present representations on the strength of general instructions heretofore given to me by my government. Time enough has not elapsed for it to receive information of the extraordinary facts developed by the appearance of these papers. I have felt it my imperative duty to lose no time in submitting this remonstrance to your lordship, while I transmit a copy for the approbation of my government.

I pray your lordship to accept the assurances of the highest consideration with which I have the honor to be, my lord, your most obedient servant,

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 664.]

LEGATION OF THE UNITED STATES,

London, April 21, 1864.

SIR: In regard to your directions contained in your No. 898, of the 5th inst., I am somewhat embarrassed by the course which the proceedings in the case of the Sea Bride have heretofore taken. By reference to my despatch No. 604, of the 25th of February last, you will perceive that I inferred from the language of Lord Russell to me that his views, on all questions in relation to that vessel and her cargo, were to be communicated to you through Lord Lyons.

Since then Mr. Mellen has sent to me copies of his correspondence with the colonial authorities at the Mauritius, which come down to a later date than those

which you have received and transmitted with your present despatch. I presume the later papers will have reached you about the same time with my No. 653, of the 8th instant, on the same subject.

Inasmuch as this case is in some respects peculiar, I have concluded, before doing anything, to await your judgment after a full view of the correspondence. There is no injury likely to happen from delay. It seems to me as if something more would be necessary than merely to bring the matter to the attention of this government. As some nice legal distinctions may be involved in the positions to be taken, I should be glad to have some line of instructions to know how far to go.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD, &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 666.]

LEGATION OF THE UNITED STATES,

London, April 22, 1864.

SIR: I have the honor to transmit copies of a note addressed by me to Lord Russell, of the 16th instant, on the subject of the outfit of the steamer *Hawk*, and his acknowledgment of it, dated the 18th. Mr. Dudley's letter, on which the representation is based, was sent to you last week, as it came to me so addressed, probably by mistake.

The *Hawk* is represented to have left the Clyde, her destination alleged to be London; but, thus far, her arrival here has not been announced.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD, &c., &c., &c.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,

London, April 16, 1864.

MY LORD: I have the honor to submit to your consideration the copy of a letter addressed to me by Mr. Dudley, consul of the United States at Liverpool, touching a steam vessel in process of construction and outfit at Renfrew, on the Clyde. My information of the nature of the work put into this vessel convinced me, some time since, that she was not intended for ordinary trade. Later circumstances, more and more distinctly, point out her destination and object to be to carry on hostilities against the commerce of the United States. The difficulty of obtaining direct evidence, in cases of this kind, has of late increased in proportion to the apprehension felt by the parties engaged of the consequences of detection. I shall, therefore, confine myself to a representation of the case as it has been laid before me in this letter, and to solicit attention to it on the part of her Majesty's government.

I pray your lordship to accept the assurances of the highest consideration with which I have the honor to be, my lord, your most obedient servant,

CHARLES FRANCIS ADAMS.

Right Hon. Earl RUSSELL, &c., &c., &c.

Earl Russell to Mr. Adams.

FOREIGN OFFICE, April 18, 1864.

SIR: I have the honor to acknowledge the receipt of your letter of the 16th instant, enclosing a copy of a letter from the United States consul at Liverpool, respecting a vessel called the Hawk, in process of construction and outfit, at Renfrew, on the Clyde, and I have the honor to inform you that the attention of her Majesty's government had been already directed to this vessel.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 916.]

DEPARTMENT OF STATE,

Washington, April 22, 1864.

SIR: I have your despatch of April 8, No. 653, which relates to the proceedings at Mauritius, in the matter of the cargo of the Sea Bride. It will be well, I think, to defer a representation on that subject until a season more propitious than the present one.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 667.]

LEGATION OF THE UNITED STATES,

London, April 22, 1864.

SIR: In relation to the suggestion made in your despatch No. 893, of the 4th of April, I have already anticipated it in a note addressed to Lord Russell on the 16th instant, based on the depositions of twenty-one persons enlisted by the rebel agents, furnished to me by Mr. Morse. These papers are so voluminous that copies will not be ready for this week's steamer. They will be sent next week, in company with my note.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD, &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 669.]

LEGATION OF THE UNITED STATES,

London, April 22, 1864.

SIR: I have received from Mr. Burlingame, at Pekin, by way of Irkutsk, a telegram dated the 24th of March, to the following effect:

"Inform them at Washington that the Chinese government, on my demand, has issued a proclamation forbidding the use of the waters and harbors of China to the confederate cruisers, as well as to furnish them any supplies."

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS

Hon. WILLIAM H. SEWARD, &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 917.]

DEPARTMENT OF STATE,
Washington, April 22, 1864.

SIR: I have received your confidential despatch of the 8th of April, No. 651, together with a copy of the London Times, which contains the reason assigned by the law lords for their decision dismissing the appeal of the Alexandra. I have expressed in a letter to Mr. Evarts the view I have taken of the course to be pursued on that subject in London, and I have transmitted to you a copy of that communication.

I have submitted to the President the reflections upon the temper and disposition of the British nation as they are affected by our civil war with which you have favored me. The correctness of your views is established by the fact that the insurgents manifestly have a bold, vigorous, and effective party in both houses of Parliament and in the British press, which party is confessedly influential in the general administration of public affairs, while the United States seem to have in the British legislature and in the British press no advocates or defenders, except persons who, however great their ability and worth, are, nevertheless, practically excluded from the conduct of national affairs. There is, moreover, a marked habit prevailing in Great Britain of comparing British resources and achievements with American resources and achievements, and this is done so unnecessarily, and often in a spirit so illiberal, as to indicate a sense of rivalry. Our civil war has endured three years. It has necessarily brought up many irritating and perplexing questions between the two countries. I think it would be safe to say that no belligerent state ever bore itself more forbearingly towards a neutral power, whose subjects committed so many injuries and provocations, than we have done towards Great Britain. I think it equally clear that no neutral power was ever more unyielding and more exacting towards a belligerent than Great Britain has been towards the United States. Your inference from this condition of things is, that this government must apply itself with the greatest possible energy to bring the civil war to a speedy and triumphant conclusion, or else it may have reason to expect conflict with Great Britain and with her allies. While, however, we accept this wise counsel, it would be unjust on my part toward the Treasury, War, and Navy Departments if I were to withhold the expression of a thorough and deliberate conviction that the war is conducted with all the energy and skill which any administration of the government of the United States in their circumstances could command.

The conflict is indeed a great one, and the ideas and interests which sustain the parties engaged in it render it fierce and obstinate. We must, therefore, accept the case as it is—a case of severe domestic trial, with continual danger of foreign intervention. We have before us but one line of duty—that is, the way of perseverance. It is the course we have pursued hitherto. It will save us now unless we are to be lost. That this nation can be lost is a conclusion that neither our virtue nor our patriotism nor even our reason can accept.

I will not say how great our confidence in the opening campaign is. Events are so near that we can more wisely wait for them than anticipate them. Nor can we prudently forget that of all human transactions those of war are, in their sequence, the most uncertain and capricious, although the ultimate results are a subject of political calculation. We have the conviction that the national cause is in a far stronger condition now than it has been at any previous stage of the civil war, while the disunion forces seem weaker than at any time heretofore. The maritime powers whose interference is to be apprehended if we shall be unfortunate, seem to me to be somewhat less at liberty to engage against us now than they have hitherto been. I think it certain that we have more friends

and fewer enemies abroad now than we have had at former periods of the war. Thus time seems to be favoring us, and time is always the best friend of justice and truth. Nor is it necessary to suppress the conviction, that pacific as the temper of the American people is, yet that the efforts and sacrifices which they have hitherto made are inconsiderable compared with what they would make if now assailed by a foreign enemy. Practically there is no longer a hearing in the country for a man who counsels fear of the enemy at home; much less would there be a hearing for one who should counsel submission to aggression from abroad. These are the grounds upon which the President builds his hope that we shall pass safely through the trials which are before us.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 918.]

DEPARTMENT OF STATE,

Washington, April 23, 1864.

SIR: Your despatch of April 87, No. 645, has been received, together with papers annexed. Of these papers a portion relate to the case of the *Amphion*, and another portion to enlistments for the insurgents in Great Britain. Your proceedings in these matters are approved. It is sincerely to be hoped that the apprehensions we have indulged in regard to the *Amphion* will prove groundless, as Earl Russell authorizes us to suppose. I regret that the prospect of enforcing the law against such illegal enlistments as are mentioned seems so very unsatisfactory.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 919.]

DEPARTMENT OF STATE,

Washington, April 23, 1864.

SIR: I have the honor to acknowledge the receipt of your despatch of April 8, No. 646, with its complement, namely, a copy of articles of association for the organization of a joint stock company, whose object is to carry supplies from British ports to the insurgents, under a contract with the insurgent cabal at Richmond. The project appears quite portentous on paper, and doubtlessly it is sufficient to require preparations to defeat it by our naval forces. These forces are now being vigorously augmented. The movements of our military and naval forces are likely to cause some new embarrassments to their schemes which these shameless confederates do not now appear to have anticipated. I am desirous not to multiply unnecessary complaints to her Majesty's government. Those which have already been presented are sufficient to render the relation between Great Britain and the United States uncomfortable. Nevertheless, I do not think this new combination ought to be allowed to go into activity without special remonstrance. It is flagrantly incompatible with the neutrality which her Majesty's government have proclaimed, and is directly subversive of peace and amity between the two countries. It obliges the United States

for purposes of self-defence to impose restrictions upon trade with Great Britain and with her colonies. It sets a precedent for maritime nations which must be of evil effect. In this respect its consequences are incalculable, if Europe is destined to become involved in any general war.

Submitting to your discretion all questions of time, of form, and of language, the President expects you to remonstrate with her Majesty's government upon the subject.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 921.]

DEPARTMENT OF STATE,
Washington, April 25, 1864.

SIR: The season has arrived when we may expect to have our attention engaged by the operations of the military forces.

Major General Banks has encountered a check on his march from Natchitoches. Although we have no detailed report, it is not to be doubted that his advanced corps sustained a severe defeat on the first day, rallied with great vigor on the second, and finally beat the insurgents in a fair field fight, on the third day of the prolonged engagement, which took place on the 8th, 9th, and 10th of the present month. We do not know the relative losses of the combatants; but we learn very directly that Major General Banks expects to renew his march upon Shreveport on the 28th instant.

An iron ram floated down the Roanoke river, past our fort at Plymouth, and it is understood that supplies and re-enforcements are cut off from that outpost. We have some anxiety for the safety of the garrison. We understand that it consists of about 2,000 men. The post has no considerable strategic importance.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

[Extracts.]

No. 670.]

LEGATION OF THE UNITED STATES,
London, April 28, 1864.

SIR: I have to acknowledge the reception of despatches numbered from 904 to 909, inclusive. * * * * *

There is not much change to note in the course of events this week. The departure of General Garibaldi from London took place on Friday, and his embarkation on his return home followed on Tuesday. On the last morning he accepted an informal invitation to breakfast with Mr. Morse, our worthy consul, where he met with the principal Americans in London. Much as has been said of the state of his health, the fact is well understood that his sudden decision to leave England was owing to other causes. His presence was made a pretext for delay on the part of the German powers in coming to the conference. There is every reason to believe the demonstration on the part of the people of

England to have been very unwelcome to most of the sovereigns of Europe. If continued it threatened to assume such proportions as materially to embarrass the position of the government and the relations of parties at home. Hence his departure on ground so unexceptionable as an affectionate anxiety for his health is a great relief, especially to the higher classes.

I am informed that the hopes of a successful issue to the conference are at this moment very feeble. On the first day a proposal of an armistice was made, and it was met in two ways: on the one hand by the Danish desire to make an exception on the water; on the other by the Germans advancing the claim of the *uti possidetis*, and assuming either the occupation of Jutland by themselves or the evacuation of it, as an offset to the abandonment of the island of Alsens by the Danes. Nothing was done beyond a reference of the subject to their respective governments for further instructions. An adjournment followed, without day named for reassembling.

The inference thus far is not favorable to the notion of that full understanding between England and France which had been anticipated from the late mission of Lord Clarendon to Paris. Without that it is plain that the ministry is not prepared to assume any line of positive action. The present prospect is that the Germans will have it all their own way, and fully execute the policy, whatever that may be, with which they entered on this war. The Danes will be likely to be sacrificed in any event. The concessions which they have been persuaded to make, to the urgency of Great Britain, appear to have only had the effect of weakening the moral power of their resistance, and making more easy the triumph of their enemies.

I have the honor to be, sir, your obedient servant,

CHARLES F. ADAMS.

Mr. Adams to Mr. Seward.

No. 671.]

LEGATION OF THE UNITED STATES,
London, April 28, 1864.

SIR: I learn by the newspapers that the trial of the case of Messrs. Laird's rams has been fixed for the 27th of May. It is arranged that all the judges of the court be present, so that the tendencies of the chief judge may possibly be rectified. There have been rumors afloat that they might be privately sold, but I attach little importance to them. It is understood that the motion of Lord Robert Cecil in the Commons respecting them will not be pressed.

The *Alexandra* has been restored to the nominal owners. It is stated that she will be immediately fitted for sea. I have instructed Mr. Dudley in case he discovers any proof of armament to let me know at once, so that I may bring the case up once more. My impression is that she will be sent elsewhere for that purpose.

The three war vessels sent to China under Captain Sherrard Osborne's contract have been taken by the government, according to the understanding referred to by Mr. Burlingame in his correspondence.

The *Alabama* is reported at Cape Town, and about to come to France, probably to refit, and discharge some of her men who feel as if they had been in her long enough. The *Georgia* and the *Rappahannock* are still there.

On the whole, the later experience of the rebels in maintaining a fleet on the ocean has not been flattering to them, whilst it must be not a little costly.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD, &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 672.]

LEGATION OF THE UNITED STATES,

London, April 28, 1864.

SIR: I now have the honor to transmit a copy of my note to Lord Russell of the 16th instant, referred to in my No. 667 of last week, and likewise copies of Mr. Morse's note to me, and of the twenty-one depositions alluded to in it. His lordship has sent me an acknowledgment dated the 18th instant, a copy of which is also sent.

The London Times of Tuesday, the 25th instant contains a report of the preliminary judicial proceedings in the case of Mr. Rumble, to whom many of these depositions refer. I transmit a copy for your consideration. The charge of Judge Crompton seems to favor a just construction of the enlistment act. It is, nevertheless, rather doubtful whether Mr. Rumble, though unquestionably guilty of all and more than all that is charged, will be convicted.

In the same newspaper will be found a report of the proceedings in the case of the pirates who seized the Joseph L. Gerrity. The question involved in it bids fair to assume rather large dimensions. Mr. Evarts, who is still here, will probably make a special report to you on that subject. Hence I shall not enlarge upon it.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

[Enclosures.]

1. Mr. Adams to Lord Russell, April 16, 1864.
2. Mr. Morse to Mr. Adams, (extracts,) April 12, 1864.
3. Deposition of Robert Sadd April 9, 1864.
4. Deposition of Joseph Sullivan, April 9, 1864.
5. Deposition of Edward Smith, D. Conuell, and James Grace, April 12, 1864.
6. Deposition of James Graham, April 4, 1864.
7. Deposition of Charles Bennett, February 17, 1864.
8. Deposition of Robert Dunn, February 29, 1864.
9. Deposition of Ludwig Kritchiner, F. Slandt, Joseph Trunck, F. Junger, John Panell, and H. Jessen, March 4, 1864.
10. Deposition of Thomas Monk, March 15, 1864.
11. Deposition of James Conner, March 21, 1864.
12. Deposition of John Yard, March 21, 1864.
13. Deposition of Thomas Shrouder, Samuel Garland, and Thomas Woods, March 28, 1864.
14. Deposition of John Don, John Pratt, and Walker Dixon, March 31, 1864.
15. Lord Russell to Mr. Adams, March 18, 1864.
16. The Times, March 26, 1864.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,

London, April 16, 1864.

MY LORD: I have the honor to transmit to you a copy of portions of a letter addressed to me by Mr. Morse, consul of the United States at this port, and likewise copies of depositions of twenty-one persons, mostly British subjects, who have been enlisted in the service of the insurgents at various places in this

kingdom. The originals of all these papers have been submitted to my examination. I have reason to believe that these are but a small portion of the number who stand ready to attest to the truth of the same facts, if there were any need to multiply testimony to convince your lordship of what has been long notorious.

When I remember how promptly her Majesty's government has done me the honor to call for explanations in the only case in which any allegation of the kind, sustained by evidence, has been made against persons in the employment of the United States, I cannot but permit myself the hope that the exercise of similar energy may have some effect in putting a check on what is plainly a systematic plan by insurgent emissaries and their British allies to violate the neutrality of her Majesty's kingdom, to the injury of a country with which it is at peace.

I pray your lordship to accept the assurances of the highest consideration with which I have the honor to be, my lord, your most obedient servant,

CHARLES FRANCIS ADAMS.

Right Hon. EARL RUSSELL, &c., &c., &c.

UNITED STATES CONSULATE,
London, April 12, 1864.

SIR: In addition to those heretofore forwarded to you, I herewith enclose the affidavits of twenty-one persons, seamen and firemen, nearly all of whom are British subjects, who engaged to go in and serve on board the rebel privateer Rappahannock, but who made their escape from her and returned to this port. They were all engaged in and sent from this country by persons residing in it, and who are probably citizens and subjects thereof.

Permit me to ask your special attention to a few of these affidavits, though all are of importance. That of Robert Sadd shows that he, an Englishman, was engaged by John Seymour, of London, to go to and serve on board the rebel steamer Rappahannock, and where and by whom his half pay was to be paid. It also shows the large number of English sailors who applied to Seymour for service on board the ship at Calais in one day. The affidavit of Joseph Sullivan proves that he, also an Englishman, was shipped or engaged to serve on board the rebel privateer Rappahannock, then and now in the port of Calais, France, by John Seymour, and that, at the time and place where he and eight other English subjects were engaged so to serve, there were four persons present who advised and aided Seymour in procuring men for the privateer Rappahannock. These four persons were probably, as Sullivan thought or knew, officers from the Rappahannock, as such persons were known to be in London for the purpose of obtaining seamen and firemen for said vessel.

The affidavit signed by Edward Smith, Dennis Connell, and James Grace shows that they were shipped or engaged by Seymour. This affidavit has a copy of such an engagement as they made and signed at Seymour's attached. • They are all British subjects, and went to Calais in partial fulfilment of their agreement, and saw the ship they, with others, were engaged for, the Rappahannock, but would not go on board, and returned to London.

The affidavit of James Graham and eight others of Liverpool, all firemen and British subjects, shows that he and the other eight were engaged and taken to Calais to the steamer Rappahannock by William A. Bradshaw and Joseph Buchanan, engineers of Liverpool, also British subjects, and were turned over to Captain William V. A. Campbell, the commander of the privateer Rappahannock. To Graham's affidavit is attached the original certificate of the appointment of Buchanan and Bradshaw as assistant engineers in the so-called Confederate

States navy. To this affidavit is also attached a certificate of an allotment of monthly pay for the period of twenty-four months. The allotment of thirty dollars per month was to be paid to the family of Joseph Buchanan by Messrs. Jones & Co., of Liverpool. These certificates are all signed by William V. A. Campbell, the commander of the so-called Confederate States vessel-of-war *Rappahannock*.

Several of these affidavits show that confederate agents have engaged men for the rebel service in several of the maritime ports of Great Britain. I have other information which entirely satisfies me that such agents are now, and have for some time been, actively engaged in procuring and sending to continental ports English subjects for the rebel service, from all the principal maritime ports in this country. The seamen, firemen, &c., are sent away in small numbers at a time, from the several ports to some confederate vessel, in charge of shipping-masters, sailor boarding-house keepers, or other persons employed to engage them. It is plain that all the parties to these transactions have acted and are acting in open violation of the 2d section of the foreign enlistment act.

* * * * *

It is an established fact that the confederates have sent, and are *now* sending, British seamen, firemen, engineers, stewards, cooks, and other persons, to man the privateers recently repaired and fitted out in French ports, and I have reason to believe, and do believe, that they are not only collecting such persons to man privateers, or vessels to be used as such, especially one now about ready to leave the Clyde, which they expect soon to get out, but also that they are sending a surplus of men out on many blockade-runners, in the hope of securing them for service on the ships-of-war they are completing in some of the southern ports. They now have their agents and runners in most of the outposts of this country, especially those located on the English channel, collecting and engaging men for the rebel service, and sending them away very quietly, one or more at a time, as they can engage them, and as they can be got away without attracting unusual attention. Both the men engaged and leaving for such purposes, and the persons through whose instrumentality they are engaged or sent away, are in this respect acting in direct and open violation of the very letter of the 2d section of the foreign enlistment act, and for so acting are liable to the penalty of fine and imprisonment.

The sixth section of the foreign enlistment act forbids any master or owner of a vessel from knowingly taking, or engaging to take, on board, as passengers or otherwise, any persons who are leaving any port of the British dominions, with the intention of entering into any foreign service, or who have engaged to enter such service against the provisions of said act; and any master or owner so offending is liable to a fine of fifty pounds for each person so taken on board, or engaged to be so taken; and the vessel may be seized and detained until the penalties are paid. There are but few steamers plying between these islands and the French coast not liable to seizure under this section, for nearly all have, at some time within the last four or five months, carried men from this country to some one of the rebel cruisers which have, within this time, been repaired and fitted in French ports. While this contraband passenger trade has been principally carried on by the boats running from London, Dover, and Folkestone to French ports, other lines and transient boats have not been neglected.

* * * * *

Your obedient servant,

F. H. MORSE, *Consul*.

Hon. CHARLES FRANCIS ADAMS,
United States Minister, &c., &c., &c.

I, Robert Sadd, of Waltham Abbey, Essex, do hereby solemnly and truly swear that on Thursday morning last, 7th April, I went to John Seymour's house, Wellclose square, hearing that he was engaging firemen. I saw him, and he told me to come at 3 o'clock, as he was going out. At 3 o'clock I, with about twenty or thirty others, all British subjects, went there, and as so many had been promised he could not engage me then. On the next morning, Friday, 8th April, I went again to Seymour's and saw him; I asked him if he had got all his firemen, or if he wanted more. He asked me if I had a discharge; I said yes. He said, he wanted a new one. I told him I had two. He took both up to the city, or office, as he called it, with him. I do not know where he took them. I asked him how we were going to Calais. He said, as he must not be seen in it, his young man would pay our passage down, and he would pay him again. We asked what wages or advance we were to have. He said we were to have 4s. a day while working on board in dock until ready to go away, and then we were to have bounty-money and wages, and that would be paid by check at Liverpool, so that we could send it up to our friends. I was to meet him again between four and five o'clock yesterday afternoon. I went and saw him. He gave me back my two discharges, and said I should have to show them when I got to Calais, and that I was to be up at his place at ten o'clock this morning to go by the boat to Calais. I went to the boat, but from some remarks I heard while on the wharf would not go. I was not aware before of the ship's name, or the service we were required for; had I known of it when Seymour first spoke to me, I would not have promised to go at all. The ship proved to be the confederate steamer *Rappahannock*.

ROBERT SADD.

Sworn by the deponent, at my office, No. 37 Nicholas lane, in the city of London, this the 9th day of April, 1864, before me,

JOHN CASTLE GRANT,

A London Commissioner, &c.

I, Joseph Sullivan, of London, do solemnly swear that I was born in Bristol, England, and am by trade a fireman. On Tuesday night last (5th of April) I was coming up Ratcliff highway; I met John Seymour, shipping-master of Wellclose square. He asked me to drink; we went into the Cock and Neptune, corner of Neptune street and the highway. When there he asked me if I would get him twelve or fourteen men, as firemen, for a ship in Calais. I said I could, and he told me to get them, and said he would give me plenty of money in Calais, but none here in London. I went to John Seymour's house, in Wellclose square, with the following, myself as leading stoker: John Lacy, David Cornell, James Grace, Edward Smith, Peter Ryan, James Lacy, Bartholomew Walsh, Owen Driscoll, Samuel Theater, John Howell, and Thomas Day, stokers. He asked me for a discharge of each man; I took them all with me and gave them to him. He (Seymour) then took me to the parlor of the King's Arms, and I had an interview with four gentlemen. One of the gentleman asked me if I could procure the men (meaning the firemen and seamen) that Seymour required, but they must all be British subjects, and that if I would I should be well rewarded when I got to Calais. He then asked me if the men were with us whose names were on the list; I answered they were, and produced the discharge of each man as his name was read by the gentleman or officer of the ship, and Seymour kept them. The four gentlemen whom I had an interview with I supposed to be officers belonging to the ship to which I was to be sent. I was then told to go to the bar and have what I liked to drink, and Seymour told me to come at eight o'clock at night and he would give me back the dis-

charges. When I went to his house at eight o'clock, he called me into the parlor, and gave me back twelve discharges, and told me to pick six of them to go away on Friday morning, from London Bridge station, which I did. On Friday morning, 8th April, at half past five o'clock, I, with five men, went to Seymour's house, and left at six o'clock for London Bridge station, arriving there at seven o'clock. While at the station waiting for Mr. Seymour, who was to pay our passage to Dover, I asked the boy who drives Mr. Seymour's cart the name of the ship we were going to. He said it was the steamer Rappahannock, lying at Calais. When Seymour came up I asked him if we were for the Rappahannock. He said, "Yes, it's all right; don't make a noise about it; you will be all right when you get to Calais." He then went into the station to get six tickets. He came out and said, "I have not got sufficient money to pay for six tickets, as it is the express train that leaves at half past seven. He then took out four sovereigns and some silver in his hand, and said to me, "Sullivan, you can proceed and take these men with you; the other two can go to my house, and I will send them by the boat." We objected to be parted, and all returned together. I went home and stopped until five o'clock in the afternoon. I went again to his (Seymour's) house in Wellclose square; he told me that the boat would start at 3 o'clock on Saturday morning (this day,) and that I was to get him more men, because it was better to send them through by dark than by daylight. I got six men with me, and two more joined me at his house at twelve o'clock at night. About half past twelve we all proceeded to London Bridge wharf, and arrived there at about half past two o'clock this morning. While waiting there I met a friend, who asked me what lay I was going in; I told him I did not know, but that I was going to Calais to join the Rappahannock. He advised us to stay away, and I and Robert Sadd would not go; the others went. Seymour told me I should not sign until after arriving at Calais; but that my wages would be \$34 per month, and £10 bounty after signing on the ship. I did not know she was a confederate ship, or would not have had anything to do with her. Seymour deceived us all through, as he knew what she was and what we were wanted for.

JOSEPH SULLIVAN.

Sworn by the deponent at my office, No. 37 Nicholas lane, in the city of London, this 9th day of April, 1864, before me,

JOHN CASTLE GRANT,

A Commissioner to administer Oaths in Chancery.

We, Edward Smith of Rotherhithe, Surrey, Dennis Connell of Cork, Ireland, and James Grace of London, firemen, do hereby solemnly and sincerely swear, that on Thursday last, April 7, we went to John Seymour's, (or, as he is called, John the Greek's,) in Wellclose square, and when there he asked us if we would go to work at four shillings a day, and to be found in food, &c., on a ship lying in Calais. We said we would, and he took the discharges from us that we had received from the ships we last served in. He told us to be at his house at quarter before six o'clock on the following morning, April 8, to go by the train to Dover, and then across to Calais. We were there, and went with three others to the London bridge station. When we arrived there, he, Seymour, had not enough money to pay our passage by that train, as it was an express. He wanted four to go by that train, but we would not separate, but all go together; so we left the station, went home, and returned again about

twenty minutes past nine. He was not there, but sent his man to tell us to come to his house, as there was a gentleman there who wanted to see us. When we got there we saw no one but himself, and he told us to be at his house again at half past one on the Saturday morning, and then we should all go by the boat that started from London bridge that morning. We went to his house, and then we demanded a copy of the agreement we had signed, and Seymour gave us a copy, which is annexed. We afterwards went to the boat, the Hanover steamer at London bridge, and Seymour's man paid our passage to Calais and took our discharges on shore with him. On arrival at Calais there was no one to receive us. We inquired where the Rappahannock was, and we met one of the officers of the ship. He asked us if we were going to join the Rappahannock. We told him that we came down to work on board of her at 4s. a day. He said we could not work on her at 4s. a day, but if we went to work on her at all we must join the ship, the wages to be £15 16s. a month, and we were to sign for three years. We told him we should not join her. He said he would pay our passage back to London. We remained all Saturday night, and went to the British consul and told him how we had been served, but he would have nothing to do with us. The captain of the steamer Rainbow allowed us to sleep on board that night, and on Sunday morning we went on shore to see when we were to be sent back. One of the officers of the Rappahannock met us and asked where we slept. We told him. Asked him for food, and went with him to the quay by the side of the Rappahannock. We were afraid to go on board, as, if we had, we feared we should have been detained, or put in irons or something. We stayed there about two hours, then went and sold some of our clothes and bought food; afterwards we saw the captain of the steamer, who told us that he would not take us back unless he had the money first. We then went back to the Rappahannock, and appearer Smith went on board. The first lieutenant would have nothing to do with us unless we joined the ship. Smith got ashore and we were going away, but were called back. The first lieutenant said, *considering that Seymour had sent us*, he would pay our passage back to London. We asked him about food, as we told him we were hungry. About half past four one of the officers came on shore and went to the steamer Rainbow and saw the captain. He brought three tickets on shore and gave them to us, and told us the steward would provide us with food. We went on board the steamer, had some food and returned to London. After we arrived in London we went down to Seymour's about our discharges, and to see if we could get paid. We were told he was at New-castle.

There was no other American steamer at Calais. The only steamers there were the Dover and the Calais packet-boats, two of the London packets and a French gunboat.

EDWARD SMITH.
D. CONNELL.
JAMES GRACE.

Sworn by all the deponents at my office, No. 37 Nicholas lane, in the city of London, this the 12th day of April, 1864, before me,

JOHN CASTLE GRANT,
A London Commissioner to administer Oaths in Chancery.

LONDON, April 8, 1864.

We agree, all of us that sign this agreement, firemen and sailors, steward and cook, to go to Calais to work on board the American steamship Rappahannock.

to have 4s. per day, cook and steward the same; sailors to have 3s. per day and all to have victual and passage money, to be paid by John Seymour. All of them to work for seven days.

1.	10.	18.
2.	11.	19.
3.	12.	20.
4.	13.	21.
5.	14.	22.
6.	15.	23.
7.	16.	24.
8.	17.	25.
9.		

I, James Graham, of Liverpool, fireman, do solemnly and sincerely swear, that I left Liverpool, with eight others, on the 7th of February, for a voyage to the East Indies, having been engaged by James Cunningham and Joseph Buchanan, engineers, of Liverpool, who informed us the steamer was lying at Gravesend, and that we were to go to London by train, and thence to Gravesend to join her there. We were well plied with liquor, and at 11 o'clock at night went to the station at Line street to meet them, our wives going with us to receive our month's advance, which they promised to pay them. We were to have £6 10s. per month. After we had all arrived at the station, we were hurried into the carriages, more drink was given to us, and no notice taken of the advance. On arrival in London we were taken in cabs to another railway, again plied with liquor, taken to Dover. When there I asked Mr. Cunningham what game he was up to. He said you are going on the steamer, as it is the tender of the ship lying off the harbor. We went on the steamer and were taken to Calais; a great number of persons came to look after us, and we were guarded until we were put on the Rappahannock. On arriving on board, Mr. Cunningham handed us over to the captain. Both Mr. Buchanan and Mr. Cunningham looked after us until then. The captain said to us as we had had a long journey he would see us to-morrow. We were all rather stupid from drink. He gave Shrouder twenty francs to spend among us; and on the next day we were called into the cabin to sign articles. They were not read over to us. The captain asked us all if we were ready to enlist. We told him no; we came as firemen. We were then told to sign our names, and that the wages were to be £6 19s. 10d. per month, with £10 bounty. We were to have advance notes three days after we signed, so as to send them to our wives. They were to be paid at Messrs. Jones & Co.'s, ship brokers, Liverpool. We did not get these notes, and Shrouder was put in irons for asking for them. The treatment we received was very severe. If the least word was said, either a pistol was placed at our heads, or we were put in irons. After six of them (the men from Liverpool) had ran away, I looked out for the first opportunity to leave the ship. On Thursday last, 31st March, at half past 5 o'clock, I got liberty and went on shore. I was to return on board the following morning, at 8 o'clock. I did not return. They finding that I was trying to get away, the doctor, Mr. Newton, and Mr. Wilson, midshipman, watched me, and when entering a public house one of them struck me with a life-preserver and knocked me senseless. I was taken to some house, and on recovering found myself on a bench, and Mr. Newton was watching me. I asked for a drink of water, and when he went to give it to me I knocked him over and ran away. I went to the Ship hotel, and the landlord stowed me away in the back kitchen until Friday afternoon, the 1st of April; I, with another man, then walked away on the Boulogne road, and was

picked up by the diligence. On arrival at Boulogne we went on board the boat for Folkestone, and arrived in London on Saturday evening. When I was struck by the officers, they severely injured my left shoulder, and brought blood from behind my right ear. I have not been able to lift my left arm since. My clothes were all covered with blood. I would never have gone on board had I known what she was. Mr. Buchanan, who had worked with me before, *recommended* me to go. He said she was for India—lying at Gravesend; the voyage was for twenty-four months. Several men from Portsmouth joined the ship at different times—two are still on board. They will take any one that comes, and when once on board they are very badly treated. The provisions are bad, and the officers treat the men like dogs. The men from Portsmouth came from her Majesty's steamer Trafalgar; one left some time back. Man-of-war's-men are told all sorts of things to induce them to join. I received a £2 advance note after I had been on board about three weeks. It was paid by Samuels & Co., of Liverpool, an exchange office. I had five francs given me for drink when I came on shore.

JAMES GRAHAM.

Sworn by the deponent, at my office, No. 5 White Hart court, Lombard street, in the city of London, this 4th day of April, before me,

JOHN J. ANDREW,

A London Commissioner to administer Oaths in Chancery.

I, James Graham, of Liverpool, fireman, do solemnly swear, that the half-pay note attached, signed by Joseph Buchanan, in the presence of William V. A. Campbell, and dated the 22d February, 1864, is of the true and proper handwriting of the said Joseph Buchanan and William V. A. Campbell. I have seen Captain Campbell sign his name several times. He signed the drafts for £2 that were given to each of the Liverpool men after we had been three weeks on board. I have seen Joseph Buchanan write often, having worked with him, and I solemnly swear, to the best of my knowledge and belief, the signature attached to the half-pay note is in Joseph Buchanan's handwriting, and also that Captain Campbell signed the two certificates of appointment of Joseph Buchanan and Alexander Bradshaw, and the said half-pay note.

JAMES GRAHAM.

Sworn by the deponent, at my office, No. 5 White Hart court, Lombard street, in the city of London, this 4th day of April, 1864, before me,

JOHN T. ANDREW,

A London Commissioner to administer Oaths in Chancery.

CONFEDERATE STATES STEAMER RAPPAHANNOCK,
Calais, February 7, 1864.

SIR: You are hereby appointed 3d assistant engineer in the Confederate States navy, from the 7th day of February, 1864.

Respectfully,

WILLIAM V. A. CAMPBELL,

Lieutenant Commanding, Confederate States Navy.

WILLIAM ALEXANDER BRADSHAW.

CONFEDERATE STATES STEAMER RAPPAHANNOCK,
Calais, February 7, 1864.

SIR: You are hereby appointed 3d assistant engineer in the Confederate States navy, from the 7th day of February, 1864.

Respectfully,

WILLIAM V. A. CAMPBELL,
Lieutenant Commanding, Confederate States Navy.

Mr. JOSEPH BUCHANAN.

I, Joseph Buchanan, 3d assistant engineer on board the Confederate States vessel-of-war Rappahannock, commanded by W. V. A. Campbell, lieutenant commanding Confederate States navy, do by these presents allot thirty dollars per month of my pay for the support of my family. And I do hereby appoint Messrs. Jones & Co., ship brokers, Liverpool, my attorney, to receive, for that purpose, from the navy agent at the port of Liverpool, England, the said sum of thirty dollars monthly, for the term of twenty-four months, the first payment to be made on the thirtieth day of April, 1864.

In witness whereof, I have hereunto set my hand and seal the twenty-second of February, 1864.

JOSEPH BUCHANAN. [SEAL]

In presence, and with the approbation of,

WILLIAM V. A. CAMPBELL,
Lieutenant Commanding, Confederate States Navy.

Registered by



DOUGLASS F. FOREST,
Assistant Paymaster C. S. Navy.

I, Charles Bennett, able seaman, of Plymouth, England, do hereby truly, sincerely, and solemnly swear, that I left London, with about thirteen others, by railway from London bridge to Dover, thence by steamboat to Calais, about the latter part of November, and joined the steamship Rappahannock there as able seaman. I was not aware what kind of ship she was until I arrived on board. I signed articles to join the steamship Scylla, at £3 15s. per month, in the Downs, for a voyage to the West Indies and back. This agreement was made at Scott's public house, in Gravel lane, Tower hill. I do not know the man who shipped me. Had I known that the ship was a confederate man-of-war, I would not have signed articles to join her.

After I was received on board, it was three days before I commenced work. Then the best part of the men who brought her from Sheerness left her. Four riggers then came on board, and commenced fitting the ship, cleaning out the tanks, shell-room, magazines, and all the other rooms. The stores, such as rum, flour, bread, rice, peas, sugar, and sundries, were then sent on shore to a private store. Four days after that some boiler-makers came from Sheerness to work on board, and commenced taking old tubes out and repairing the boilers. I with the seamen then commenced our regular work, putting things to rights on deck and aloft. Some days after that a report came to the ship that two United States frigates were in sight. Mr. Graves, the first lieutenant, said the vessel lay too much in sight, and it was shifted further back into the harbor. The old fan was removed from the Rappahannock and a new one put into her. We

then received stores, consisting of clothing, shoes, ribbons, and sundries. About three weeks ago, ten of us were sent on shore to get some cases that had been received from England by the steamer. I was leading hand, and ordered to open them. They were opened, and contained bull-rings, pieces of brass made to fit on the deck for the guns to travel in, enough for ten guns, and some copper fighting bolts. These are what the gun rests on, to allow them to turn any way while in use. The funnels have been fitted so as to lower with crutches on deck. The bolts and bull-rings were taken on board, and stowed away in the gunner's store-room. A roll of cloth was then taken on deck, and the magazine screens cut out. For several days afterwards nothing was taken on board but small fittings. On Wednesday, 10th February, three engineers and six firemen came on board, and in the evening the fires were lighted and banked up, and we were told if it was foggy she would go out that night to Cherbourg, where the remainder of her crew were waiting to come on board. The fog, however, cleared away and we did not go out. On Saturday evening, 13th February, at half past six o'clock, I watched the port side of the deck—the side nearest the shore; and as the officer knew that I had tried to desert from the ship before, he sent me on the other side of the ship. As he walked aft, I jumped over the bow, took the end of a rope and lowered myself into the water. I swam to a little boat that was lying the other side of the pier, landed, and ran as hard as I could away. At half past ten o'clock I went on the mail-boat that was going to Dover, and as there was no one awake on board, I went below and stowed myself away under hatches. On arrival at Dover, having no money, I sold my clothes to pay the passage over, or the boat would have taken me back again, and came to London. I never intended stopping on the Rappahannock after I knew she was a confederate ship-of-war.

his
CHARLES × BENNETT.
mark.

Sworn by the deponent, Charles Bennett, at my office, No. 37 Nicholas lane. &c., &c., &c.

JOHN CASTLE GRANT,
A London Commissioner, &c., &c.

I, Robert Dunn, of Sheerness, boiler-maker, do hereby truly and solemnly swear that I went to Calais and joined the ship Rappahannock as fireman. I had previously called upon Mr. Rumble three times, as I heard he was shipping hands for her, and he had sent some of my shipmates and paid their carriage to Calais, but I was not able to see him. On arrival at Calais I saw Gifford and the other boiler-makers sent by Mr. Rumble; they had been working all night drawing tubes. Gifford told me Mr. Rumble gave him £15 to pay their passage over, and he (Gifford) told me if I had seen Mr. Rumble he would have paid my passage. I remained on board three days before I signed articles, and my time was dated back to the 1st of December at £5 19s. 10d. per month as fireman, and we were to share prize money as the prizes were taken. Upon the day I shipped, five men came from Sheerness and joined the Rappahannock. They were all from her Majesty's ship Cumberland. Two had deserted and the other three had been discharged, Mr. Rumble having bought their discharges for them. Mr. Rumble gave them the money to buy them out of the service a week before, and at the time the ship lay at Sheerness they told me how they could have duped Mr. Rumble if they saw fit. Robert Crickmore was the man that Mr. Rumble gave the money to buy the discharges for himself, Reuben Knight, and Murrens. This was at Sheerness pier-head. Robert Crickmore

said this openly on board, and so did the other men several times. A marine who had deserted, afterwards joined as a coal trimmer. The day after, Mr. Rumble came on board the *Rappahannock* about twelve o'clock midnight, and he asked Mr. Ramsay if those fellows had come on board. Mr. Ramsay said, "Yes, all right." I was in the engine-room and was coming up to report all's well, and heard this conversation; and Mr. Rumble added, "I must be off by daylight in the morning." Four or five days afterwards I saw Mr. Rumble again, and I told Gifford I had seen him. He made answer, he "wished he had seen him, as they were getting very short of money." A gang of men, boiler-makers, fitters, came from Mr. Rennie's after the *Sheerness* boiler-makers had left, and commenced repairing boilers, putting in new tubes, &c. While they were on board some packing cases were received from the shore; they were taken on board and unpacked. They contained brass slides, pivots, and galvanized iron ring-bolts for gun-slides. They were stowed away in the steerage, and were not to be placed in their proper places on deck until after the vessel left Calais. The treatment we received on board was very bad. I was promised by Captain Campbell that my wife should receive money out of my bounty during the time we remained at Calais, and half-pay so soon as it became due. She only received £2, and when I asked him to send some more he threatened to boot me. I saw Mr. Graves a week afterwards about the same subject, and he said he would put me in slave irons if I came aft any more about money. After I had been on board six weeks I received a half-pay check for £2 17s. 1d., payable at Mr. Howe's Fountain Inn, *Sheerness*, and on 10th February I received another half-pay note for £2 16s. 10d., payable at the same place. On one occasion, while I was asking for my right about sending money to my wife I was put in irons and kept so for twenty-four hours; and on another occasion, while asking the same questions, they threatened to put thumb-screws on me. On the 12th of February I made my escape from the ship in consequence of the treatment I received, and as I thought my wife would not get the half-pay, as the notes were sent to Liverpool and returned unpaid, and afterwards a check was given and paid at Mr. Howe's Fountain Inn, *Sheerness*. These checks were drawn on Haggard & Co., Cheapside. There were on board slave irons in great numbers, and revolvers; and the men on board were constantly in irons and threatened with revolvers; in fact, none of the men will stop if they can get away. There were only about twelve men and boys on board when I left.

After I returned to *Sheerness* Mr. Rumble sent for me on the 15th of February last, and asked me if I knew whether Mr. Ramsay wore his uniform before he went to London or afterwards. I told him after he had been to London, so far as I knew. He asked my reason for leaving the *Rappahannock*. I told him it was the consequence of the bad treatment I received, and I could not see my way clear for leaving half-pay to my wife. He said he was sorry I had left. I thought the *Rappahannock* was a blockade runner; had I known she was a confederate man-of-war I should not have joined her.

ROBERT DUNN.

Sworn at my office, No. 5 White Hart court, Lombard street, in the city of London, this 29th day of February, 1864.

JOHN J. ANDREW,

A London Commissioner, &c., &c., &c.

I, Ludwig Kretschmar, do truly, solemnly, and sincerely swear, that I was boarding at John Seymour's, Welclose square, and in the second week of February I signed articles at Seymour's to join the steamship *Florida* at Brest, a

£6 per month wages, with a bounty of £10, and 5s. a day while the ship remained in port. I was told I should be supplied with clothes and all other necessaries, so I sold what I had and spent the money. Two days afterwards I was taken on board (with seventeen others) the steamer bound for Calais. On arrival at Calais we did not know where to go. A man then came from the confederate steamer Rappahannock and told us to come on board. We refused, as we were ordered for Brest. Finding we had nowhere to go, and being told that we were intended for the Rappahannock, we went on board, and on the following day the captain came to us and said he would pay us the bounty and wages at sea, and would pay our debts. As we wanted money we objected, and he told us we should have no food unless we stayed by. We all refused, and were put on board the Calais packet bound for Dover, from whence we had to beg our way to London. The Austrian consul put us in a boarding-house and paid part of our passage to Dover, the remainder being paid by the French police.

LUDWIG KRETSCHMAR.

Sworn at my office, No. 5 White Hart court, Lombard street, in the city of London, this 4th day of March, 1864.

JOHN J. ANDREW,

A London Commissioner, &c., &c., &c.

We, Frederick Strandt, Joseph Trunick, Franz Junger, John Parell, and Henry Jesser, do truly, solemnly, and sincerely swear to the truth of the foregoing statement. We were all shipped by John Seymour at Wellclose square for the ship Florida, lying at Brest, and all went to Calais at the same time, and returned with him to Dover.

FREDERICK STRANDT,
JOSEPH TRUNICK,
FRANZ JUNGER,
JOHN PARELL,
H. JESSER.

Sworn by the above-named five deponents at my office, No. 5 White Hart court, Lombard street, city of London, this 4th day of March, 1864, before me
JOHN J. ANDREW,

A London Commissioner, &c., &c., &c.

Deposition of Thomas Monk.

I, Thomas Monk, of Portsmouth, Hampshire, England, do truly and solemnly swear, that about eleven months ago I was engaged by a stranger, at Portsmouth, to go to New Haven, and from thence by steamer to the French coast, and ran alongside the confederate steamer Georgia, and on arriving on board I joined her as quartermaster. There were three other men taken from New Haven at the same time, and the steamer had guns and ammunition for the Georgia. They were taken on board as we lay off the coast.

The Georgia went to sea as soon as we had received the guns, and cruised towards the Cape of Good Hope. On the passage she took eight American ships, burned three of them and bonded the other five. After we arrived at the Cape, we returned to France, and went into Cherbourg for repairs. No ships were burnt on the return passage, but one was bonded. After we had been at Cherbourg some time, I was sent to the Rappahannock, at Calais, and then I returned home. While I was in the Georgia I received for the first six months £5 10s. per month, and afterwards £6 per month; my wife receiving the half

pay at Portsmouth, by post office order from Mr. Jones, of Liverpool. That was received regularly while I remained on the ship.

I remained at Portsmouth, on leave, for a week, and then joined the confederate steamer Rappahannock, at Calais, as boatswain, at £18 per month. Half was to have been paid to my wife by the same Mr. Jones, of Liverpool; but she did not draw any. I joined her about five weeks back, and stayed on board until I received my discharge, on the 7th March. I applied for it, as I found it impossible to remain on a ship that was conducted like the Rappahannock—the captain and chief officer always creating some unpleasantness on board; and I did not like to remain on a ship that was intended to burn and destroy merchant ships, unarmed and defenceless.

When I signed articles on board the Rappahannock, I made an arrangement with the purser respecting the half-pay to be paid to my wife at Portsmouth, which was also to be paid by Mr. Jones, of 28 Chapel street, Liverpool.

THOMAS ^{his} + MONK.
mark.

Witness to the mark of Thomas Monk—
JOSHUA MUNN.

Sworn at my office, No. 4 Nicholas lane, Lombard street, in the city of London, this the 15th day of March, 1864, by the deponent, Thomas Monk.

J. WILKINSON,
A London Commissioner, &c., &c.

The witness to the mark of the deponent being first sworn that he had truly, distinctly, and audibly read over the contents of the above affidavit to the said deponent, and that he saw him make his mark thereto. Before me,

J. WILKINSON,
A London Commissioner, &c., &c.

Deposition of James Conner.

I, James Conner, do solemnly and truly swear that on Sunday afternoon, the 7th February last, I, with eight others, viz., James Graham, John Dow, Thomas Shrouder, Walker Dixon, John Pratt, Thomas Welch, Thomas Woods, and William Friend, were sent for to go to Major's public house, in Athol street, Liverpool. On going there we were met by four engineers, citizens of Liverpool, viz., William Bradshaw, Joseph Buchanan, and Messrs. Coats and Cunningham. Mr. Cunningham appeared to be the leader and spokesman of the other engineers. We were taken into a private room where liquor was abundantly provided. We were asked by Cunningham if we wanted a good ship and good pay. We asked for some particulars, and were told the ship was in London and was going to Nassau to run the blockade, and that our pay would be £6 10s. per month, and that half-pay for our families could be drawn in Liverpool. We were told we were to sign articles in London. We left the same night for London, and on arrival were taken in cabs from Euston square station to a public house outside the station, and from thence to the railway for Dover, and by the boat to Calais. On arrival at Calais, Cunningham said, "I have done with you now," and that he would turn us over to the captain. He took us on board the Rappahannock and left us there. The captain of the Rappahannock asked us if we wanted to enlist. We told him we did not come to list; we came as firemen, not as soldiers. He then said he would settle with us to-morrow, or the next day, and gave us a twenty-franc piece to get some drink with; and further told us that he would give us (10s.) ten shillings a

month more than Mr. Cunningham had promised us at Liverpool. We left the ship and returned the same night on board, and the next morning the captain promised us he would send half-pay notes on to Liverpool in a day or two, to be paid at Messrs. Jones & Co., Chapel street, Liverpool, and (£10).ten pounds bounty to be paid twenty-four hours after we left port. We then signed articles. Something was read to us, but it was impossible to understand one word of it. We were then set to work cleaning engines and other regular work. After working two or three days we complained about the meat. It was short in quantity, and not what we were in the habit of having in port—being salt beef and pork. The captain put a revolver to my head and swore he would shoot me or any of them who complained again. I and five others were put in irons, hands and feet, and kept so for seven days and nights for daring to make any complaints. We were afterwards sent to work again below; the steam was got up and the fires banked. I do not think they would have taken us out of irons if they had not wanted to get the steam up. The steam was got up two or three times during the next four or five days, and the fires were kept banked up all the time. I made two or three attempts to leave the ship, as I could not stay in her. I and others wrote to Captain North, at the Old Sailor's Home, Liverpool, and to Captain Packham, of the New Sailor's Home, Liverpool, and asked them to get us away. We told him how we had been deceived, and that instead of a blockade-runner in London being the ship we were to go in, we had been taken to Calais and put on board the confederate steamer Rappahannock. We never received any answer to these letters. On Sunday, the 20th March, I got ashore and met a friend who promised to pay my passage to London, and as I had no intention of stopping by the ship when I knew what service she was intended for, I was glad of any chance to get away. I left by boat for Dover that same night.

his
JAMES X CONNER.
mark.

Witness to the mark of James Conner—
JOSHUA NUNN.

Sworn by the deponent, James Conner, at my office, No. 5 White Hart court, Lombard street, in the city of London, this 21st day of March, 1864; the witness to the mark of the deponent being first sworn that he had truly, distinctly, and audibly read over the contents of the above affidavit of the said deponent, and that he saw him make his mark thereto. Before me,

JOHN T. ANDREW,
A London Commissioner, &c., &c.

Deposition of John Ford.

I, John Ford, of Portsmouth, able seaman, do hereby truly, sincerely, and solemnly swear that, on Thursday last, March 13, I was in Dover, and when on the pier I was asked by a man who appeared to be a waterman, if I wanted a ship. I said I did. He said he could find me one. I asked what ship she was. He did not inform me, but told me to meet him on the next evening, between 10 and 11 o'clock, at the corner of Swargate street, and he said he would put me across. I went there at the time appointed, and met him. He paid my passage to Calais, and told me to go down the pier and I should see a ship (steamer) that was very like an American ship, and that I was to go on board. He gave me two (2) shillings, and told me to go to the Dover Castle, as I should not be able to go on board until the morning. The next morning I went on board the Rappahannock, and the officer on deck asked me what I

wanted. I told him I wanted a ship, and that I was sent down to her. He said the captain was not there at present; he was gone to Paris; but that I could remain on board if I liked until Monday. On that day I signed articles in the cabin; but I did not know the nature of the articles, or the voyage, until after I had signed. The agreement was afterwards read to me. It was to serve during the present war, at the rate of \$22 per month, and £10 bounty to be paid twenty-four hours after the ship left port; and there were some remarks in the articles about burn, sink, or destroy the enemy's ships. I then asked for two hours' leave, and the captain said I might have up to 7 o'clock. I returned about 7½, and the captain threatened to put me in irons, as I had only signed articles; so I jumped off the rail and ran up the pier and escaped. I returned to the Dover Castle and at night went on board the boat and returned to Dover. I should not have gone had I known what ship she was. I thought she was an American ship, and not intended as a ship-of-war. The man at Dover, who paid my passage to Calais, was an Englishman. I should know him again if I met him.

JOHN FORD.

Sworn at my office, No. 5 White Hart court, Lombard street, in the city of London, this 21st day of March, 1864.

JOHN J. ANDREW,
A London Commissioner, &c., &c.

Deposition of Thomas Shrouder.

I, Thomas Shrouder, of Liverpool, leading stoker, do hereby solemnly and sincerely swear, that on the 7th February I was engaged at a public house, at the corner of Athol street and Scotland road, by Mr. James Cunningham and Joseph Buchanan, engineers, for a voyage to the East Indies, at £6 per month wages. The ship was lying at Gravesend. I was to go to London by train, and from thence to Gravesend. And eight others went with me. We were plied with drink. And at eleven at night were to be at the station in Lime street. And our wives were to receive a month's pay. On arrival there we were hurried into the train, and having drunk freely, did not know where we were until we arrived at London. Our wives did not get a farthing, and we were not allowed to see them. After arrival in London we were put into four cabs and taken to London bridge, (as we learnt afterwards. We did not know ourselves.) We were taken to a coffee and public house there, and had a drink at the bar. Were then put into the train and sent to Dover, and then bundled on board the packet-boat, and landed in France. On arrival at Calais we were taken on board a steamer. We did not know her name then, or what she was, but found afterwards she was the confederate steamer *Rappahannock*. After we had been put on one side of the deck, the captain came and asked us if we wanted to enlist. James Graham, one of the stokers that left Liverpool with us, answered, "We did not come to list. We were engaged at Liverpool as stokers, for a ship lying at Gravesend, bound for the East Indies." The captain said, as we were all the worse for drink, we had better have our grub and grog on board. And he asked the crew what sort of treatment they got. The crew would not give their opinion, and we found out afterwards the reason why they would not was, they were afraid if they told the truth, and we complained, they would be put in irons. We told the captain we wanted to go on shore that night; so he gave me twenty francs to give the lot of us a run up town. I, James Graham, John Dow, and Walker Dixon stayed on shore all night, and in the morning, after having had from eight to ten glasses of brandy

each, we were taken down to the cabin to sign. No articles were read, but we made our own agreement, and swore to stand by our own agreement, and nothing more. He wanted us to swear allegiance to the confederacy, but we declined. Our wages were to be paid monthly, at £6 19s. 10d. per month, and we wanted a month's advance, but were promised £10 instead, to be paid three days afterwards. Our half-pay notes were to be given us at the same time, so that we might send them to our wives at once. They were to be payable at Messrs. Jones, Higgins & Co., Chapel street, Liverpool. When the time was up, I asked for the note and advance, and was put in irons, hand and feet, and kept from that day, 12th of February, to the 5th of March, (twenty-two days and six hours in irons.) The captain wanted me to make an apology. I would not. He said that he would try me by court-martial so soon as the ship was at sea, and swore he would shoot me if found guilty, and if it lay in his power he would do his best to find me guilty. I remained on board until the 27th, and then got liberty to go on shore, and ran away. Our half-pay was to have been paid regularly every month by Messrs. Jones, Higgins & Co., so long as we remained by her. We were engaged for twenty-four months, and the half-pay notes were made out for that time. None of us should have gone in the ship but for Mr. Cunningham and Mr. Buchanan recommending her to us. They have also left the Rappahannock.

THOMAS SHROUDER.

Sworn at my office, No. 5 White Hart court, Lombard street, in the city of London, this the 28th day of March, 1864.

JOHN J. ANDREW,
A London Commissioner, &c., &c.

We, Samuel Garland and Thomas Woods, both of Liverpool, firemen, do solemnly swear that we were shipped at the same time, and that all the statements set forth by Thomas Shrouder are true and correct, with the exception of that part about the twenty francs and the time that Shrouder left, we having run away two days before, (Good Friday,) and were concealed until the boat left for Dover. We were both shipped in the same way by Mr. James Cunningham and Mr. Joseph Buchanan, at Liverpool, and our half-pay notes are to be paid at Messrs. Jones, Higgins & Co.'s, Chapel street, Liverpool.

SAMUEL GARLAND.
THOMAS WOODS.

Sworn at my office, No. 5 White Hart Court, Lombard street, in the city of London, this the 28th day of March, 1864, by both deponents.

JOHN I. ANDREW,
A London Commissioner, &c., &c.

Depositions.

We, John Dow, John Pratt, and Walter Dixon, all of Liverpool, firemen, do truly and solemnly swear that we were shipped with six others by James Cunningham and Joseph Buchanan, at a public house, corner of Athol street, Liverpool, for a voyage to the East Indies. They informed us that the steamship was lying at Gravesend waiting for firemen, the wages to be paid at the rate of £6 10s. per month. We were all well treated with drink, and they promised that our wives should have the month's advance if they came with us to the station, Lime street, Liverpool, at 11 o'clock; but instead of our wives getting

any money, we were all hurried into the train and more liquor given us in London. We were taken in cabs to the station for Dover, and on arrival there were put into the steam packet for Calais; after we had arrived at Calais, we were taken on board the steamer Rappahannock, and in the morning asked if we wanted to enlist. Graham, one of us, said that we came as firemen or stokers, and not as soldiers. We were then ordered to sign articles. They were not read over to us, but we were to have £6 19s. 10d. per month and £10 bounty instead of advance, which was to be paid in three days. Our half-pay notes were to be paid to our wives in Liverpool for twenty-four months, by Messrs. Jones, Higgins & Co., Chapel street, Liverpool. After remaining on board about seven weeks, and as the provisions were bad, and we were treated more like dogs than men, we left the ship, leaving our clothes on board. None of us would have gone to her had not Messrs. Cunningham and Buchanan deceived us. They told us she was for India. Had we known she was a ship-of-war for the confederates we would not have gone at all.

JOHN DOW.
JOHN PRATT.
WALTER DIXON.

Sworn by all the deponents at my office, No. 5 White Hart Court, Lombard street, in the city of London, this 31st of March, 1864, before me,

JOHN I. ANDREW,
A London Commissioner to Administer Oaths in Chancery.

Earl Russell to Mr. Adams.

FOREIGN OFFICE, April 18, 1864.

SIR: I have the honor to acknowledge the receipt of your letter of the 16th instant, enclosing copies of a letter from the United States consul in London, and of the depositions of twenty-one persons relative to the enlistments stated to have been made at various places in this kingdom for the so-styled confederate government, and to state to you that these papers shall be considered by her Majesty's government.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

[From the London Times of April 26, 1864.]

COURT OF QUEEN'S BENCH, WESTMINSTER, APRIL 25.

THE QUEEN *vs.* RUMBALL.—CASE OF THE RAPPAHANNOCK.

Before the court sat to-day *in banco* Mr. Justice Crompton charged the grand jury of Middlesex. Generally this is an affair of mere form, as bills are merely preferred before them. But on this occasion there was a case of great importance, in which it was expected that an indictment would be preferred, the case of the Rappahannock, the vessel purchased and fitted out for the confederates some time since.

The ship had, it may be recollected, belonged to the admiralty, and was sold by them last year, and was purchased by certain persons on the part of the confederate government, and the defendant was said to have been concerned in getting her refitted and sent to Calais, and also in getting men to embark on

board of her with a view to their enlistment in the confederate service when they reached Calais. There was, it may be remembered, a preliminary inquiry as to the conduct of the defendant, Mr. Rumball, and the result was that the case was sent here for trial under the foreign enlistment act, and we understand that an indictment is being prepared, and was to be preferred at this sitting, but it was not quite ready and was to be preferred at the next. Knowing it was to be preferred, it became the duty of the learned judge to notice the case in his charge, and to direct them as to the law. The case, it will be observed, arises under the same statute as that to which the cases of the *Alabama*, the *Alexandra*, and the steam rams relate, and the main interest of the charge on the present occasion was in its indicating the opinion of the learned judge on the great question as to the construction of the act which divided the court of exchequer in the case of the *Alexandra*. Upon that question it will be seen the learned judge has declared his adhesion to the law as laid down by Mr. Baron Channell, one of the two barons who decided in favor of the crown.

After the grand jury had been sworn, the learned judge addressed them at considerable length with reference to this case. He said that a question of great importance was to come before them under the foreign enlistment act, but, as the evidence was not yet complete, and the indictment was not yet to be preferred, it would be premature to enter into the observations of the learned judge upon the facts. As regarded the construction of the act, he commented, in the first instance, upon the first section with reference to enlistment, which enacts that "if any person whatever" (foreigner or British subject) within the United Kingdom, or any part of her Majesty's dominions elsewhere, shall here retain, engage, or shall attempt or endeavor to hire, retain, engage, or procure any persons whatever to enlist, or enter, or engage to enlist, or serve, or to be employed in the service of any foreign power, &c., as a soldier, sailor, &c., either for or under or in aid of any foreign power, &c., or to go, or to agree to go, or embark from any part of her Majesty's dominions, for the purpose or with intent to be so enlisted or employed, &c., every person so employed shall be guilty of a misdemeanor. Commenting on this enactment, the learned judge observed that it appeared to him that the hiring or agreeing to retain must be in the United Kingdom or other dominions of her Majesty, and that if the person went abroad into a foreign country, and there prevailed upon a man to enlist in the service of the belligerent, that would not be a breach of the act. The question, then, would be whether the grand jury were satisfied that the defendant, either directly or indirectly, whether personally or as one of a party, either alone or by his agents, they being engaged in one common design, and acting in pursuance of that design, did in this country enlist, or procure, or attempt to retain or procure any persons to enlist, or engage to enlist, or enter into the confederate service; or whether he merely went abroad to Calais and there procured persons to enlist, which would not be any violation of the act. Coming then to the celebrated seventh section, on which the cases of the *Alabama*, the *Alexandra*, and the steam rams turn, and which runs thus: That if any person within any part of the United Kingdom, or in any part of her Majesty's dominions, shall without her leave equip, furnish, fit out, or arm, or attempt or endeavor to equip, furnish, &c., or shall knowingly aid, assist, or be concerned in the equipping, furnishing, fitting out, or arming of any ship or vessel with intent or in order that such ship shall be employed in the service of any foreign state, &c., or shall within the United Kingdom issue or deliver any commission, &c., such person shall be deemed guilty of a misdemeanor," the learned judge observed that this section had raised great doubts in very learned minds, but he was disposed to agree in the judgment of Mr. Baron Channell in the case of the *Alexandra* in the exchequer; and his view was that if the equipment was of such a nature as to make the vessel more available for warlike purposes, that would be sufficient to justify the grand jury in finding a true bill. Of course

that must be done in this country, and there was no dispute that, as to the equipment, whatever was charged had been done here. If, then, the grand jury thought that there had been in this country either such a hiring or endeavoring to hire, or such an equipment or attempting to equip, as he had explained, they ought to act on that view of the law for the purpose of finding the bill, leaving the court to deal with such question of law as might arise on the trial of the indictment. With reference to the evidence the learned judge said he believed that there would be other evidence than that contained in the deposition; and, in point of fact, as already stated, the bill not being ready, was not preferred at this sitting, and will be preferred at the next, on the 4th of May.

The delivery of the charge occupied a considerable time, but, for the reasons already given, the above is all that is necessary to say of it.

Sittings in Banco, before the Lord Chief Justice, Mr. Justice Blackburn, Mr. Justice Mellor, and Mr. Justice Shee.

The court took motions, and the first case moved was one which has a connexion with the one above mentioned, but, as it practically in all probability may involve several lives, it is one of far deeper interest. It was the case of the confederates who are now in custody at Liverpool on a charge of piracy alleged to have been committed on the seizure by them of the federal schooner the *Gerrity*, in November last, and who, if the court do not interfere, will be delivered over to the American authorities under the extradition treaty act, to be tried in America as pirates.

IN THE MATTER OF FERRAN AND OTHERS.—THE CASE OF THE CONFEDERATE CREW.

This was an application on behalf of several men now in jail at Liverpool on a charge of piracy for a writ of *habeas corpus* to bring them up with a view to their discharge from custody under the following circumstances, as disclosed in the information and sworn depositions on which the men were detained. In November last there was a schooner, the *Gerrity*, of New York, lying at Matamoros, bound to New York. Before sailing, a number of men engaged passage to New York, and among these were the prisoners. On the voyage these men seized the master and the crew, telling them at the same time, "You are to consider yourselves confederate prisoners." This was fifty miles away from land, in the Gulf of Mexico. They sailed to the coast of Yucatan, and there cast the crew of the schooner adrift in a boat. Among those who seized the vessel was one Hogg, who was called a major, and said to be in the confederate service, and who told the master of the schooner that he "had proper documents to justify the act." The master of the schooner himself admitted that he had heard that Hogg was a major in the confederate service and believed him to be so, and he also stated that "Hogg was the leader of the party," and that the others acted under his orders; and the others said that they were engaged by a Major Hogg, of the confederate army, and that Hogg showed them documents signed by a General Bee, saying that they were granted by Jefferson Davis to justify what they did. So that it seemed pretty plain that the men, at all events, believed they were acting for the confederate government. The ship was taken to Belize, but what became of her did not appear. In February last the prisoners, some of the men who had seized the vessel, were found to be in this country, and thereupon, on the 15th of February, Mr. Adams, the American minister, made a requisition to Sir George Grey, as secretary of state for the home department, to have them delivered up under the extradition treaty of

1842. And accordingly, on the 20th of February, Sir George Grey issued his warrant under that act for their apprehension and detention. The warrant (which was read to the court) was in these terms :

“To her Majesty’s justices of the peace, and other magistrates and officers of the peace in and for the borough of Liverpool, and to all other her Majesty’s justices of the peace and other magistrates and officers of justice within the United Kingdom of Great Britain and Ireland :

“Whereas on the 15th day of February, 1864, in pursuance of a treaty between her Majesty and the United States of America, made on the 9th day of August, 1842, and ratified on the 10th day of October, in the same year, and of an act of Parliament passed in the session holden in the 6th and 7th years of her Majesty’s reign, entitled ‘An act for giving effect to a treaty between her Majesty and the United States of America for the apprehension of certain offenders,’ a requisition was made by Charles Francis Adams, esq., the United States minister at this court, to deliver up to justice certain persons called or known by the names of James Clement, T. Wilson, Daniel O’Brien, and — Kelly, charged with the crime of piracy on board the schooner Joseph L. Gerrity, of New York, within the jurisdiction of the United States of America :

“I, therefore, the Right Hon. Sir George Grey, Baronet, one of her Majesty’s principal secretaries of state, do hereby, in pursuance of the power and authority given to me, as such secretary of state by the said act, require you and all of you within your several jurisdictions to govern yourselves accordingly, and to aid and assist in apprehending the said James Clements, T. Wilson, Daniel O’Brien, and — Kelly, and committing them to jail for the purpose of their being dealt with according to the provisions of the said treaty, and delivered up to justice pursuant to the said act, if found to be within the same.

“In witness whereof I have hereunto set my hand and seal this 20th day of February, 1864.

“G. GREY. [L. S.]”

The extradition treaty act of 1843, 6th and 7th Victoria, cap. 76, recites that “by treaty between her Majesty and the United States it was agreed that the authorities respectively should deliver up to justice all persons who, being charged with the crime of murder, or piracy, or arson, or robbery, or forgery, committed within the jurisdiction of either of the contracting parties, should be found within the territories of the other, provided that this should be done only upon such evidence of criminality as would, according to the laws of the place where the fugitive should be found, justify his apprehension and commitment for trial, if the crime had been there committed, and then it proceeds to enact that in case requisition shall at any time be made by the authority of the United States, in pursuance of and according to the treaty, for the delivery of any person charged with the crime of murder, or with the crime of piracy, or arson, or robbery, or forgery, committed within the jurisdiction of the United States of America, it shall be lawful for one of her Majesty’s principal secretaries of state, by warrant under his hand and seal, to signify such requisition, and require all justices to aid in apprehending the person accused and committing such person to jail, for the purpose of being delivered up to justice, according to the treaty ; and thereupon it shall be lawful for any justice of the peace, &c., to issue his warrant for the apprehension of such person, and to commit the person so accused to jail, there to remain until delivered, pursuant to such requisition.” It was under this act that Sir George Grey had issued his warrant. The men were found to be at Liverpool, and Mr. Raffles, the magistrate there, on the 23d of February issued his warrant for their arrest. The warrant, which was read to the court, ran thus :

"Borough of Liverpool.—To wit.

"To the constables of the said borough, and to all peace officers of the said borough:

"Whereas the Right Hon. Sir George Grey, one of her Majesty's principal secretaries of state, by a warrant under his hand and seal, dated the 20th day of February, 1864, hath signified to me that, pursuant to the treaty made between her Majesty and the United States of America, in the year of our Lord 1842, and of an act of Parliament, passed in a session holden in the sixth and seventh years of her Majesty's reign, entitled 'An act for giving effect to a treaty between her Majesty and the United States of America for the apprehension of certain offenders,' a requisition was made to deliver up to justice James Clements, T. Wilson, Daniel O'Brien, and — Kelly, charged with the crime of piracy on the high seas, within the jurisdiction of the United States of America:

"These are, therefore, to command you, in her Majesty's name, forthwith to apprehend the said James Clements, T. Wilson, Daniel O'Brien, and — Kelly, pursuant to the before-mentioned act of Parliament, wherever they may be found in England, and bring them before me, or some other magistrate sitting at this court, to answer unto the said charge, for which this shall be your warrant.

"Given under my hand and seal, at the police court at Liverpool, in the borough of Liverpool aforesaid, this 23d day of February, 1864.

"T. S. RAFFLES. [L.s.]"

The men were arrested and lodged in jail at Liverpool under this warrant, which was obtained upon the information of the master of the schooner, one Nicholas, and on the 26th of February the prisoners were brought up before Mr. Raffles, and the master was the main witness against them. After hearing the evidence, it being contended on behalf of the prisoners that as they had acted under the confederate government they could not be deemed to have committed piracy, they were remanded, in order that the magistrate might consider what course he ought to take, and also that the prisoners might have an opportunity of applying to a higher tribunal. In the mean time the assizes occurred, and Mr. Littler, the prisoners' counsel, applied to Mr. Justice Willes, the senior judge of assize at Liverpool, for a writ of *habeas corpus*. The learned judge took time to consider the application, and next day said that he entertained a very strong opinion upon the case, and it appeared to him, and no doubt the magistrate would take the same view, that this was a case at which it would be an abuse that the men should be given up to their probable doom without their having the opportunity of taking the opinion of the superior courts. The principle upon which the distinction between pirates and belligerents was based was well known and simple; but in this case it certainly would be highly improper for any magistrate to give up the men without consulting the superior courts. But his lordship did not think proper to grant the writ of *habeas corpus* to discharge the men, as this court would shortly meet, and he took it for granted that the men would not be delivered up in the meanwhile. Acting, of course, in accordance with the opinion of the learned judge, the magistrate from time to time remanded the prisoners, and on the 23d instant his last warrant of remand was issued, which ran thus:

"Borough of Liverpool.—To wit.

"11th and 12th Victoria, cap. 42, 43.—Warrant remanding a prisoner to the constables of the said borough of Liverpool, and to the keeper of the head lock-up house for the said borough.

"Whereas Warren Quinsey, or Wilson George M'Murdoch or Kelly, and John Tevena or Clements, were this day charged before the undersigned, one of

her Majesty's justices of the peace in and for the said borough, with having committed the crime of piracy on board a certain American ship on the high seas within the jurisdiction of the United States of America, contrary to the statute in that case made and provided, and against the peace, and it appears to me to be necessary to remand the said persons charged :

"These are, therefore, to command you, the said constables, in her Majesty's name, forthwith to convey the said persons charged to the said lock-up house for the said borough, and there to deliver them to the keeper thereof, together with this precept; and I hereby command you, the said keeper, to receive the said persons charged into your custody in the said lock-up house, and there safely keep them until the 30th day of April instant, when I hereby command you to have them at the police courts in Dale street, in the said borough, at 11 o'clock in the forenoon of the same day, before me or before such other justice or justices of the peace as may then be there, to answer further to the said charge, and to be further dealt with according to law, unless you shall be otherwise ordered in the mean time.

"Given under my hand and seal this 23d day of April, A.D. 1864, at Liverpool, in the borough aforesaid.

"T. S. RAFFLES. [L.S.]

"Exhibited and attached to affidavit of Miles Burton."

Such was the state of the case, and such its main facts as disclosed on the depositions.

Mr. E. JAMES, Q.C., (with him Mr. Littler,) now moved on behalf of the prisoners for a rule *nisi* for a writ of *habeas corpus*, directed to the keeper of the jail at Liverpool, directing him to bring them up with a view to their discharge out of custody. He contended that they were entitled to the writ on several grounds. First, that this act which the prisoners had committed was not piracy; next, that if it was so, it was piracy *jure gentium*, and so did not fall within the treaty of extradition, which applied only where the offence was committed in the foreign jurisdiction, and could not be tried in England; whereas if it was piracy *jure gentium* it could be. First, this was not piracy; it was an act done on behalf of one belligerent upon another. Piracy was a felony; this was not so. The facts which, if there was no state of war, might make out a case of piracy, would not make it out when there existed a state of war, and the act was done on behalf of one of the belligerents against the other.

Mr. Justice BLACKBURN. Does it appear that the commander of these men had a commission from the confederate government?

Mr. JAMES. No, it does not; but that is immaterial. It is enough that they were acting, or believed that they were acting, on behalf of the confederate government; and of that there is ample evidence on the depositions. Piracy being a felony, must be an act done with the felonious intent, with the *animus furandi*. But here it was obvious that it did not exist. An act done on behalf of a belligerent could not possibly be piracy.

Mr. Justice BLACKBURN. Does it appear that the prisoners were British subjects?

Mr. JAMES. It is enough for me to say that they do not appear to have been subjects of the federal States. (In point of fact, we believe, one is a native of Alabama and two are British subjects.) It is clear that they professed to be acting for the Confederate States.

The LORD CHIEF JUSTICE. The application is for a *habeas corpus*, with a view to their discharge out of custody?

Mr. JAMES. Yes; they are only in custody for the purpose of their being delivered up, not for their trial here. And my second point is, that even if the

act was one of piracy; it was piracy *jure gentium*, and therefore does not fall within the treaty; for the treaty applies only if the offence be one which could not be tried in this country, and must be tried in the foreign country. But if this were piracy *jure gentium*, then it was an offence triable in our courts in this country, and was not within the scope of the treaty of extradition, which did not contemplate piracy *jure gentium*, but piracy by the municipal law of the foreign country. In the last edition of Wheaton's International Law, page 253, the law was thus stated as laid down in the American courts on this very subject: "The courts of New York have had before them a case like this, and have dealt with it not as piracy *jure gentium*, holding that it could not be piracy, *jure gentium*, but piracy against their own municipal law." And in a note the learned writer stated:

"Privateers acting under commissions from the president of the Confederate States were brought into New York and indicted for piracy, and they were tried under a statute which was intended to apply to piracy in substitution for another statute which defined it with reference to the law of nations. The statute embraces also cases of robbery committed on board an American vessel, though they might not come within the definition of piracy by the law of nations. It was admitted that if it were necessary on the part of the government to bring the charge within the definition of robbery and piracy, as known to the common law of nations, there would be great difficulty in so doing; for the evidence showed, if anything, an intent to depredate on the vessels of one nation only—the vessels of the United States—which falls far short of the spirit and intent said to constitute the essential elements of that crime. The statute, however, declares that a person shall be deemed a pirate who commits the crime of robbery on the high seas against any ship or vessel. And the interpretation clause applies it to the case of depredations on American vessels on the high seas under circumstances which would constitute the crime of robbery if committed on land. Upon this the men were convicted, but they were never sentenced, for the conviction led to threats of retaliatory action on the part of the Confederates, and the proceedings were stopped.

Thus, therefore, it appeared, on the judgment of the federal courts, that a case like this was not piracy *jure gentium*, but had to be judged by the municipal laws of the State, which in this case did not apply, for the act would not be robbery on land. But if the act were piracy *jure gentium*, then it could be tried in this country, and was not within the extradition treaty. It made no difference, so far as the neutral power was concerned, that the prisoners had no regular commission, even if that were the case; for it was lawful for the subjects of one belligerent to commit depredations on the property and ships of another.

Mr. Justice BLACKBURN.—Have you authority for that?

Mr. JAMES cited Wheaton, page 627, to show that it was so, and that, though a subject of a belligerent might be punishable by that belligerent for committing acts of hostility on the ships or territory of the other without authority, yet that the act was not on that account piracy.

Mr. Justice MELLOR.—You define piracy to be a crime committed against men in general, without any regard to their being belligerents?

Mr. JAMES.—Just so. The pirate is *hostis humani generis*. But this was an act on behalf of one belligerent against the other. The ship sailed from a Mexican port, and was on the high seas; and the prisoners acted in seizing her for the confederates.

The LORD CHIEF JUSTICE observed that the act was on board an American ship, and asked if the ship did not carry with it the law, as the soil did?

Mr. JAMES said he denied the application of that doctrine in the present case. The act was not piracy unless it amounted to piracy *jure gentium*, in which case it was triable here, and the extradition act did not apply, for that act applied

only to an offence against the municipal law of the foreign state, which could not be tried here.

Mr. Justice BLACKBURN hinted a doubt if *habeas corpus* was the proper remedy.

Mr. JAMES asked what other remedy could there be? The men were in custody for the purpose of being delivered over, and if allowed to be detained for that purpose would be delivered over, and it would be too late to issue the writ when they were on board an American vessel.

Mr. Justice SHEE.—You say the *habeas corpus* is the only course to question the right to detain the men for the purpose of delivery.

Mr. Justice BLACKBURN said his doubt was whether it would not be lawful to detain them for trial in this country.

Mr. JAMES pointed out that, according to the warrants, they were not detained for that purpose, but for the express purpose of being delivered over to the American authorities, and if their detention was declared lawful, they would at once be delivered up, as the learned judge had observed, "to their doom."

In the result, the court granted a rule *nisi* for the writ of *habeas corpus*.

Mr. Adams to Mr. Seward.

No. 675.]

LEGATION OF THE UNITED STATES,

London, April 29, 1864.

SIR: I transmit a copy of the London Times of the 27th, containing a report of a debate in the House of Lords on the subject of the Tuscaloosa. Some of the *animus* displayed in it is of a purely party nature. Underneath it, however, is the temper prevalent in men of that class, hostile to the United States, and anxious to seize every opportunity to injure them in the public estimation. Lord Russell, in his reply, has for the first time ventured to expose that a little.

The same subject was brought up in the House of Commons last evening. A report of that debate is printed in this morning's Times, a copy of which I likewise transmit. The same phenomena were elicited as in the Lords, with only the customary difference of earnestness in the demonstration. Considering how untenable the proposition at issue was, the majority is not over-large.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD, &c., &c., &c.

[From the London Times of April 27, 1864.]

THE LAW OF PRIZES.

Lord CHELMSFORD, in rising to call the attention of the house to the statement of the views of her Majesty's government as to the mode of dealing with prizes brought by the belligerent powers of America within the dominions of her Majesty, contained in the correspondence respecting the Tuscaloosa, said that the subject was of such great importance that he needed not to apologize for now submitting it to the attention of their lordships. In the deplorable war which had lasted so long on the other side of the Atlantic, both belligerents had shown themselves so extremely sensitive as to the conduct of this country, that it was necessary for the government to be extremely careful not to exceed the strict limit of neutral obligations. In the papers laid on the table of the house under the title of "Correspondence respecting the Tuscaloosa," he found

some instructions issued by the government, with respect to the mode of dealing with prizes brought by the belligerents into ports belonging to this country, which appeared to him so much at variance with principle and policy, and so likely to lead to unpleasant consequences, that he felt bound to present to their lordships his views on the matter. At the commencement of the present unhappy war in America her Majesty was advised to issue a proclamation interdicting the armed ships of both contending parties from coming with their prizes into the ports, harbors, and roadsteads of the United Kingdom, or any of the British colonies and possessions. The writers on international law laid it down, that although it was not a violation of neutrality for a belligerent to bring her prizes into a neutral port, and even to dispose of them there, yet they all added that the neutral might refuse that privilege, provided the refusal extended to both parties. The *Tuscaloosa* was originally a federal vessel named the *Conrad*, and on the 21st of June last she was off the coast of Brazil with a cargo of wool, and was there captured by the well-known confederate cruiser the *Alabama*. The captors put some guns on board, a lieutenant of the confederate navy, and ten men, and changed her name to the *Tuscaloosa*, and employed her as a tender of the *Alabama*. The two vessels were in company at the Cape of Good Hope in the beginning to August, and Captain Semmes ordered the *Tuscaloosa* to Simon's Bay, for the purpose of obtaining provisions and undergoing some slight repairs. She arrived off Simon's Bay on the 7th of August. The admiral upon the station, Sir Baldwin Walker, who had heard something of the previous history of the *Tuscaloosa*, doubted whether she could properly be considered as the tender of the *Alabama*, whether she did not retain her previous character of an uncondemned prize, and therefore whether she could be admitted under the terms of her Majesty's proclamation. He wrote to Governor Wodehouse, and requested that he would take the opinion of the law officers of the crown on the subject. The governor accordingly consulted the attorney general at the Cape, who founded his opinion upon passages of international law which were to be found in Wheaton, and which were printed in the papers, and also upon a despatch from Earl Russell of the 31st of January, 1862. The attorney general gave it as his opinion that, by reason of the vessel having been armed by the captors, and having had a lieutenant and crew put on board, the *Tuscaloosa* was a vessel-of-war, and might enter the bay. Sir B. Walker was not quite satisfied with the opinion of the attorney general; but, of course, he yielded, and the *Tuscaloosa* anchored in Simon's Bay on the 8th of August and remained there till the 15th. While she was lying at anchor there the American consul claimed that she should be retained on behalf of the original owners, and that claim had such an important bearing on the instructions which he should bring under the consideration of their lordships that he begged their special attention to it. Having mentioned that the *Tuscaloosa's* true name was the *Conrad*, and that she had never been condemned as prize by any lawfully constituted admiralty court, he proceeded to say :

"I am well aware that your government has conceded to the so-called Confederate States the rights of belligerents, and is thereby bound to respect Captain Semmes's commission; but having refused to recognize the 'confederacy' as a nation, and having excluded his captures from all the ports of the British empire, the captures necessarily revert to their real owners, and are forfeited by Captain Semmes, as soon as they enter a British port."

Now the governor seemed to have taken a more correct view of international law than her Majesty's government, for, in reply to Mr. Graham, the American consul, he says :

"The governor is not aware, nor do you refer him to the provisions of international law by which captured vessels, as soon as they enter our neutral ports, revert to their real owners, and are forfeited by their captors. But his excel-

lency believes that the claims of contending parties to vessels captured can only be determined in the first instance by the courts of the captor's country."

The American consul was not satisfied with that reply, but wrote another letter repeating his claim, and repeating it in the most extraordinary manner. He said :

"The Tuscaloosa, being a prize, was forbidden to enter Simon's bay by the Queen's proclamation, and should have been ordered off at once, but she was not so ordered. Granting that her Majesty's proclamation affirmed the right of Captain Semmes as a 'belligerent' to take and to hold prizes on the high seas, it just as emphatically denied his right to hold them in British ports. Now, if he could not hold them in Simon's bay, who else could hold them except those whose right to hold them was antecedent to his, that is, the owners? The Tuscaloosa remained in Simon's bay seven days with her original cargo of skins and wool on board. This cargo, I am informed by those who claim to know, has been purchased by merchants in Cape Town; and if it should be landed here directly from the prize, or be transferred to other vessels at some secluded harbor on the coast beyond this colony, and brought from thence here, the infringement of neutrality will be so palpable and flagrant that her Majesty's government will probably satisfy the claims of the owners gracefully and at once, and thus remove all cause of complaint. In so doing it will have to disavow and repudiate the acts of its executive agents here; a result I have done all in my power to prevent."

He would have said that that claim was as extravagant as the reasoning was illogical, if he had not been checked by finding that it had been sanctioned by her Majesty's government, apparently on the advice of the law officers of the crown. The governor sent a despatch upon the subject to the secretary for the colonies, and he could not refer to the noble duke who lately held the seals of the colonial office without expressing his deep and sincere regret that the country would be deprived, he feared, for a long time of his tried and valued services. [Hear, hear.] In that despatch Governor Wodehouse says :

"An important question has arisen in connexion with the Alabama, on which it is very desirable that I should, as soon as practicable, be made acquainted with the views of her Majesty's government. Captain Semmes had mentioned, after his arrival in port, that he had left outside one of his prizes previously taken, the Tuscaloosa, which he had equipped and fitted as a tender, and had ordered to meet him in Simon's bay, as she also stood in need of supplies. When this became known to the naval commander-in-chief, he requested me to furnish him with a legal opinion; and whether this vessel could be held to be a ship-of-war before she had been formally condemned in a prize court, or whether she must not be held to be still a prize, and, as such, prohibited from entering our ports. The acting attorney general, founding his opinion on Earl Russell's despatch to your grace of the 31st of January, 1862, and on Wheaton's International Law, stated in substance that it was open to Captain Semmes to convert this vessel into a ship-of-war, and that she ought to be admitted into our ports on that footing."

It was in reply to that despatch that an answer was sent by her Majesty's government, to which he was about to direct their lordships' attention, and he could not help thinking that the instructions conveyed in it were the result of federal pressure. He ought not to make that assertion without proof, [hear, hear;] but he thought he was in a position to prove it, and it would be for their lordships to say how far he should be successful. During the time in which the proceedings to which he had referred were going on, a very active correspondence was being prosecuted between the noble earl (the foreign secretary) and the American minister, upon the subject of what Mr. Adams called the depredations of the Alabama, and the claims of American citizens to be indemnified

for the losses which they had sustained by the capture of their vessels by the Alabama. Those claims the noble earl of course repudiated, but Mr. Adams mentioned many causes of complaint, and among others he sent to the noble lord the extraordinary claim of the American consul at the Cape, to which he (Lord Chelmsford) had directed their lordships' attention. In the papers No. 1, North America, the correspondence respecting the Alabama, their lordships would find a despatch of the noble earl of the 29th of October, just six days before the despatch of the 4th of November, in which the instructions to the governor were contained. The noble earl mentioned various matters of complaint under three different heads, and among others the case of the Tuscaloosa, and how it had been dealt with by the authorities at the Cape. He said:

"As regards the Tuscaloosa, although her Majesty's government would have approved the British authorities at the Cape if they had adopted towards that vessel a course different from that which was adopted, yet the question as to the manner in which a vessel under such circumstances should, according to the tenor of her Majesty's orders, be dealt with, was one not altogether free from uncertainty. Nevertheless, instructions will be sent to the British authorities at the Cape for their guidance in the event of a similar case occurring hereafter, and her Majesty's government hope that under those instructions nothing will for the future happen to admit of a question being raised as to her Majesty's orders having been strictly carried out."

There, then, on the 29th of October, after a rather menacing correspondence on the part of the American minister, her Majesty's government promised that instructions should be issued, and they were issued six days afterwards, which sanctioned and adopted the extraordinary claims made by the American minister. The noble duke gave the following instructions:

"With regard to the vessel called the Tuscaloosa, I am advised that this vessel did not lose the character of a prize captured by the Alabama, merely because she was, at the time of her being brought into British waters, armed with two small rifled guns, in charge of an officer, and manned with a crew of ten men from the Alabama, and used as a tender to that vessel under the authority of Captain Semmes. It would appear that the Tuscaloosa is a bark of 500 tons, captured by the Alabama off the coast of Brazil on the 21st of June last, and brought into Simon's bay on or before the 7th of August, with her original cargo of wool (itself, as well as the vessel, prize) still on board, and with nothing to give her a warlike character (so far as is stated in the papers before me) except the circumstances already noticed. Whether, in the case of a vessel duly commissioned as a ship-of-war, after being made prize by a belligerent government, without being first brought *infra presidia* or condemned by a court of prize, the character of prize, within the meaning of her Majesty's orders, would or would not be merged in that of a national ship-of-war, I am not called upon to explain. It is enough to say that the citation from Mr. Wheaton's book by your attorney general does not appear to me to have any direct bearing upon the question."

And then the noble duke concluded as follows:

"The question remains, what course ought to have been taken by the authorities of the Cape—1st, in order to ascertain whether this vessel was, as alleged by the United States consul, an uncondemned prize, brought within British waters in violation of her Majesty's neutrality; and 2d, what ought to have been done if such had appeared to be really the fact. I think that the allegations of the United States consul ought to have been brought to the knowledge of Captain Semmes while the Tuscaloosa was still within British waters, and that he should have been requested to state whether he did or did not admit the facts to be as alleged. He should also have been called upon (unless the facts were admitted) to produce the Tuscaloosa's papers. If the result of these inquiries had been to prove that the vessel was really an uncondemned prize, brought into British waters in violation

of her Majesty's orders, made for the purpose of maintaining her neutrality, I consider that the mode of proceeding in such circumstances most consistent with her Majesty's dignity, and most proper for the vindication of her territorial rights, would have been to prohibit the exercise of any further control over the Tuscaloosa by her captors, and to retain that vessel under her Majesty's control and jurisdiction until properly reclaimed by her original owners."

These were the views of her Majesty's government, and the despatch having been sent to the governor, he found himself in a situation of great embarrassment. He required further explanation, and he wrote on the 19th of December as follows:

"I think it right to take advantage of the first opportunity for representing to your grace the state of uncertainty in which I am placed by the receipt of this communication, and for soliciting such further explanations as may prevent my again falling into error on these matters."

He added:

"Your grace intimates that the citation from Wheaton by the acting attorney general does not appear to have any direct bearing upon the question. You will assuredly believe that it is not from any want of respect for your opinion, but solely from a desire to avoid future error, that I confess my inability to understand this intimation, or, in the absence of instructions on that head, to see in what direction I am to look for the law bearing on the subject. The paragraph cited made no distinction between a vessel with cargo and a vessel without cargo; and your grace leaves me in ignorance whether her character would have been changed if Captain Semmes had got rid of the cargo before claiming for her admission as a ship-of-war. Certainly, acts had been done by him which, according to Wheaton, constituted a 'setting forth as a vessel-of-war.'"

To add to these embarrassments, the Tuscaloosa, after an absence of four months, returned on the 26th of December to Simon's bay. Admiral Sir B. Walker wrote to the governor stating the course to be pursued:

"As it appears that this vessel, the Tuscaloosa, late federal ship Conrad, is an uncondemned prize, brought into British waters in violation of her Majesty's orders, made for the purpose of maintaining her neutrality, I therefore consider that she ought to be detained with the view of her being reclaimed by her original owners, in accordance with the opinion of the law officers of the crown forwarded for my guidance, the copy of which I have already transmitted to you."

This was certainly an extraordinary departure from the ordinary course of procedure. Parliament had been told that the opinions of the law officers of the crown were confidential communications, and the government had repeatedly refused to lay them upon the table. The noble earl, (Russell,) when asked in the house when it was that the attorney general had changed his opinion on the subject of the steam rams, said, "I consider the opinion of the attorney general to be a privileged communication, and I decline to answer the question." Yet it now appeared that these confidential communications were sent out as instructions to Admiral Sir B. Walker, and by him communicated to the captains of the fleet. On the 4th of November the instructions from the colonial office to the governor were that the governor ought to retain the Tuscaloosa until properly reclaimed by her original owners. The governor offered to give her up to the United States consul, who most fortunately appeared to have some scruples about receiving her. The consul said:

"I can institute a proceeding *in rem* where the rights of property of fellow-citizens are concerned without a special procuration from those for whose benefit I act, but cannot receive actual restitution of the *res* in controversy without a special authority."

If the consul had not had these scruples, there would have been a little bill to pay at the present moment. The stores and ammunition were taken out and

deposited in the dock-yard, but not without a protest on the part of the lieutenant of the confederate navy who was in command of the Tuscaloosa. He said:

"In August last the Tuscaloosa arrived in Simon's bay. She was not only recognized in the character which she lawfully claimed and still claims to be, viz., a commissioned ship-of-war belonging to a belligerent power, but was allowed to remain in the harbor for the period of seven days, taking in supplies and effecting repairs with the full knowledge and sanction of the authorities. No intimation was given that she was regarded merely in the light of an ordinary prize, or that she was considered to be violating the laws of neutrality. Nor, when she notoriously left for a cruise on active service, was any intimation whatever conveyed that on her return to the port of a friendly power, where she had been received as a man-of-war, she would be regarded as a prize, as a violator of the Queen's proclamation of neutrality, and consequently liable to seizure. Misled by the conduct of her Majesty's government, I returned to Simon's bay on the 26th instant, in very urgent want of repairs and supplies; to my surprise the Tuscaloosa is now no longer considered as a man-of-war, and she has, by your orders, as I learn, been seized for the purpose of being handed over to the person who claims her on behalf of her late owners. The character of the vessel, viz., that of a lawful commissioned man-of-war of the Confederate States of America, has not been altered since her first arrival in Simon's bay, and she, having been once fully recognized by the British authorities in command in this colony, and no notice or warning of change of opinion or of friendly feeling having been communicated by public notification or otherwise, I was entitled to expect to be again permitted to enter Simon's bay without molestation. In perfect good faith I returned to Simon's bay for mere necessities, and in all honor and good faith in return I should, on change of opinion or of policy on the part of the British authorities, have been desired to leave the port again. But, by the course of proceedings taken, I have been (supposing the view now taken by your excellency's government to be correct) first misled and next entrapped. [Cheers.] My position and character of my ship will most certainly be vindicated by my government. I am powerless to resist the affront offered to the Confederate States of America by your excellency's conduct and proceedings."

In due course the governor communicated to the secretary of state for colonial affairs the seizure of the Tuscaloosa. In a despatch, dated the 11th of January, he said:

"I very much regret having to acquaint your grace that the confederate prize vessel the Tuscaloosa has again entered Simon's bay, and that the naval commander-in-chief and myself have come to the conclusion that, in obedience to the orders transmitted to his excellency by the admiralty, and to me by your grace's despatch of the 4th November last, it was our duty to take possession of the vessel, and to hold her until properly claimed by her original owners. The admiral therefore sent an officer with a party of men from the flag-ship to take charge of her, and to deliver to her commander a letter in explanation of the act. Copies of his protest, addressed to me, and of my reply, are enclosed. He not unnaturally complains of having been now seized after he had, on the previous occasion, been recognized as a ship-of-war. But this is manifestly nothing more than the inevitable result of the overruling by her Majesty's government of the conclusion arrived at on the previous occasion by its subordinate officer."

By a despatch, dated the 4th of March, the governor was directed by the noble duke to deliver back the Tuscaloosa to the lieutenant who commanded her, the reasons for so doing being promised to be communicated to him in a subsequent despatch. Now, the instructions sent out on the 4th of November were either right or wrong. If they were wrong, her Majesty's government need have felt no humiliation in admitting their error and making an apology, and it would further have been a generous act to which the confederates were entirely unaccustomed. [Hear, hear.] If these instructions were right, let their lordships see

the position in which the government placed itself by the order to deliver back the vessel. By the seizure of the vessel under the original instructions the original owners had been remitted to their rights, and the government ought not to have ordered her to be given back to the confederates without the consent of the original owners. [Hear.] The fact was, her Majesty's government did not like to admit they were wrong, and could not asser' that they were right; [hear;] and, therefore, in the despatch communicating the reasons why the Tuscaloosa was to be restored they took a course which was always an indication of weakness—they made the Tuscaloosa a special case. The announcement was conveyed in these terms:

"I have now to explain that this decision was not founded on any general principle respecting the treatment of prizes captured by the cruisers of either belligerent, but on the peculiar circumstances of the case. The Tuscaloosa was allowed to enter the port of Cape Town and to depart, the instructions of the 4th of November not having arrived at the Cape before her departure. The captain of the Alabama was thus entitled to assume that he might equally bring her a second time into the same harbor, and it becomes unnecessary to discuss whether, on her return to the Cape, the Tuscaloosa still retained the character of a prize, or whether she had lost that character and had assumed that of an armed tender to the Alabama, and whether that new character, if properly established and admitted, would have entitled her to the same privilege of admission which might be accorded to her captor, the Alabama."

So ended the history of the Tuscaloosa, and if no general principle were involved he should dismiss the individual case without any further observations. But the instructions issued on the 4th of November had never to his knowledge been recalled, their impropriety had never been acknowledged; and, therefore, he desired to point out what in his view formed the error and illegality of those instructions. He challenged his noble and learned friends to point out in any writer on international law a passage declaring that where a neutral had prohibited belligerents from bringing prizes into its waters, that neutral, on the prohibition being disregarded, had any right whatever to seize the prize and to restore it to the original owners. The power of the neutral was confined to ordering the vessel away, and if she refused to go force might be used to expedite her departure. By the rules of international law the moment a capture took place the property, as between belligerents, was vested in the captors, and therefore a neutral dealing with the property in the way attempted by her Majesty's government was in effect to take it from one of the belligerents and to give it to the other. [Hear, hear.] Further, the neutral had no right whatever to enter upon the consideration of the validity of prizes brought into its waters. The capture might have been invalid and illegal, but the neutral had no power to inquire. There were only certain cases in which the neutral might and ought to inquire, and those were exceptions very strongly establishing the rule. Where a vessel was seized by a belligerent within neutral waters, a violation of neutrality took place, and it was not only the right, but the duty, of the neutral to restore the vessel to its original owners, because there never was a moment at which the vessel was legally a prize. But that rule certainly could not be made to apply to the case of the Tuscaloosa, which, after a lapse of six months from the time of her capture, came into neutral waters, and was seized for the purpose of being delivered back. It was also said that a neutral might exercise the authority of seizing prizes brought into its waters, and of returning them where the property of its subjects had been illegally captured and was afterwards brought into its ports; the very extraordinary reason given being that this was intended as a compensation for the asylum afforded. But he repeated that no authority was to be found for the proposition that neutrals were entitled to deal with prizes brought into their waters in the manner in which her Majesty's government had sought to deal with the Tuscaloosa. [Hear.] It would, no doubt, be urged by

the government that the bringing of a prize into neutral waters, contrary to the prohibition contained in the proclamation, was a violation of neutrality. But with this view, taking the plain meaning of the words "violation of neutrality," he could not agree. He contended that the instructions issued by her Majesty's government were wholly illegal, void, and improper; and there was this further disadvantage, that, he presumed, they had not been confined to the governor of the Cape of Good Hope, but had been sent round to all our colonial possessions. At the very moment when he was addressing their lordships it might be that prizes had been seized in some of those quarters and delivered up by the different local governors either to the confederates or the federals. If the prize improperly seized under the instructions of the government belonged to the federals, he could anticipate fully well what would happen: strong remonstrances and high-toned menaces on one side, submission, apology, restoration, and, perhaps, compensation, on the other. [Hear.] Should the prize taken be from the confederates, the remonstrances might be equally loud, but they would not be so much regarded. [Hear, hear.] Restoration, as shown by the present case, might be necessary, but it would be restoration unaccompanied by any apology; it would be mere restoration, and nothing more. [Hear, hear.] Whichever alternative happened, the position of the British nation would not be very dignified. He trusted that in the reply about to be made by her Majesty's government he should hear either that the propositions which he had ventured to lay down were capable of refutation, or that the instructions issued by the government had been recalled or were about to be recalled. In either event, he should feel that he had not provoked the discussion in vain. [Cheers.]

EARL RUSSELL. The noble and learned lord has, no doubt, brought very serious questions under your lordships' consideration. At the same time, it must be recollected that all these applications of international law to the contest between the federals and so-called Confederate States have to be made under very exceptional circumstances. It has been usual for a power carrying on war upon the seas to possess ports of its own in which vessels are built, equipped, and fitted, and from which they issue, to which they bring their prizes, and in which those prizes, when brought before a court, are either condemned or acquitted. But it so happens that in this conflict the confederates have no ports except those of the Mersey and the Clyde, from which they send out ships to cruise against the federals; and having no ports to which to bring their prizes, they are obliged to burn them upon the high seas. It is natural, under these circumstances, that the confederate officers and confederate authorities should somewhat resent the orders of her Majesty, of which the noble and learned lord was pleased to approve, and should endeavor to evade their operation. These orders, as your lordships are aware, were not to bring prizes made by either belligerent into the ports of the United Kingdom or of her Majesty's possessions abroad. The *Tuscaloosa*, so called, was brought into the port of the Cape of Good Hope. The noble and learned lord passed over with little more than a depreciatory notice the reports of the naval officers upon that station. For my part, I have found that the officers of her Majesty's naval service, being bound to apply the law of nations according to the rules with which they are furnished, and the books which they have in their possession, have, generally speaking, applied them with remarkable sense and discretion, [hear, hear,] and in a spirit of equal firmness and moderation, showing themselves disposed always to maintain the rights of the British crown and the honor of the British flag, but at the same time to do nothing for the purpose of irritation or mere vexatious interference. [Hear, hear.] Such has been the conduct of Sir A. Milne, who has for four years directed the operations of her Majesty's forces on the coast of America in such a manner as, while securing the approbation of his own government, to conciliate the regard of all with whom he has had to deal, and particularly of the government of the United States. And such, I will venture to say, was the

conduct of Sir Baldwin Walker, who had this case to consider. It struck Sir B. Walker, as I think it would have struck any one else, that if confederate ships-of-war were to be allowed to send in prizes with their cargo on board, and by putting one or two guns and a confederate officer on board to call them ships-of-war, the policy of her Majesty's government would be defeated and her Majesty's proclamation would become null and void. They would send in their prizes with a couple of guns and an officer, who, having sold first the cargo and then the vessel, would return to his ship; and this process might be repeated with any number of prizes. Sir B. Walker has expressed this in some passages to which the noble and learned lord did not refer, but which I will read to your lordships. In his letter of the 19th of August he says:

"On the 8th of August the tender Tuscaloosa, a sailing bark, arrived in Simon's bay, and the boarding officer having reported to me that her original cargo of wool was still on board, I felt that there were grounds for doubting her real character, and again called the governor's attention to this circumstance. My letter and his reply are annexed. And I would here beg to submit to their lordships' notice that this power of a captain of a ship-of-war to constitute every prize he may take a 'tender' appears to me to be likely to lead to abuse and evasion of the laws of strict neutrality, by being used as a means for bringing prizes into neutral ports for disposal of their cargoes and secret arrangements— which arrangements, it must be seen, could afterwards be easily carried out at isolated places."

And in another letter:

"The admission of this vessel into port will, I fear, open the door for numbers of vessels captured under similar circumstances, being denominated tenders, with a view to avoid the prohibition contained in the Queen's instructions; and I would observe that the vessel *Sea Bride*, captured by the *Alabama* off Table bay a few days since, or all other prizes, might be in like manner styled tenders, making the prohibition entirely null and void."

With reference to that the noble and learned lord expressed no opinion. He did not tell us whether, under the law of nations, it is permissible for the captain of a man-of-war to make any number of his prizes into tenders or vessels-of-war, and send them into neutral ports, and thus evade a proclamation of neutrality. Sir B. Walker further says:

"Now, this vessel has her original cargo of wool still on board, which cannot be required for warlike purposes, and her armament and the number of her crew are quite insufficient for any services other than those of slight defence. Viewing all the circumstances of the case, they afford room for the supposition that the vessel is styled a 'tender' with the object of avoiding the prohibition against her entrance as a prize into our ports, where, if the captors wished, arrangements could be made for the disposal of her valuable cargo, the transshipment of which, your excellency will not fail to see, might be readily effected on any part of the coast beyond the limits of this colony."

The question was whether it was to be permitted that prizes should be sent into our courts under the disguise of being vessels-of-war, and thus her Majesty's proclamation should be entirely defeated. The attorney general of the colony thought this was perfectly permissible, and that it could not be avoided or counteracted in any way, and in support of that opinion he quoted a paragraph of Wheaton. The law officers in this country are of opinion that that paragraph does not apply, because it was written with reference to a different subject, viz: the prize acts. In that paragraph it is said, and very truly and justly said, that although in certain cases merchant ships which have been recaptured must be restored to their owners, yet when a vessel has taken the character of a man-of-war, if the captain of a British man-of-war has to fight such a vessel, and has to use his warlike forces to capture her, she then loses the character of a merchant ship, and the naval officers are fairly entitled to consider her as a

prize. That principle does not seem to apply to the present case. This, then, was the case with which the government had to deal, having the opinion of the attorney general of the colony on the one side, and that of Sir B. Walker on the other. The opinion of Sir B. Walker is clearly the opinion of common sense, and the law officers say that it is well founded in law, and that it is not permissible to put a few guns into a prize, retaining her cargo on board, and send her into a neutral port to sell it. My noble friend—who, with the noble and learned lord, I regret has been compelled by ill health to resign his office, or we should have heard him vindicate his own despatch—my noble friend, the late secretary for the colonies, followed the opinion of the law officers. Their opinion was that this vessel, not being in fact a vessel-of-war, but being a prize, ought not to have been admitted to the Cape as a vessel-of war. [Hear, hear.] But it then became a question (and a very serious question I admit it to be) whether she ought to have been warned off in the first instance, or whether she should be taken possession of and restored to her owners. The noble and learned lord seemed at first to say that there was no such thing as taking possession of the prize as a belligerent; that when it once became a prize it was out of the power and jurisdiction of the authorities of another country; but he afterwards very properly and justly said that there were certain cases in which the courts have held, and authorities have concurred with them, that vessels can be restored to their owners if they are not properly prizes, and he avoided the contradiction into which he had fallen by saying that in that case they never had been prizes. That, however, does not get over the contradiction of the general *dictum* which he had laid down, because it is certainly true that there are cases decided by the courts of the United States in which vessels have come in as vessels of war, and, nevertheless, the courts have, after argument, ordered them to be restored to their owners, and they have been so restored. Undoubtedly the ground of their being restored has been that the vessel which took them had been originally fitted out and manned by the United States themselves, and therefore they were bound to restore those vessels and their cargoes to the owners; but whatever the ground may be, it is quite clear that there are cases in which, according to principles which the United States admit, the vessels ought to be restored, and here is a passage from Wheaton on the subject. He says:

“In such cases the judicial tribunals of the neutral state have authority to determine the validity of the capture thus made, and to vindicate its neutrality by restoring the property of its own subjects, or of other states at amity with the original owners.” [Hear, hear.]

Therefore there are cases in which a vessel may be considered as a prize unlawfully taken, and it may be restored to the owners. The Duke of Newcastle, at the end of his despatch, said that the real character of the Tuscaloosa ought to have been inquired into; that Captain Semmes should have been called upon to produce her papers; and he concluded:

“If the result of these inquiries had been to prove that the vessel was really an uncondemned prize, brought into British waters in violation of her Majesty's orders made for the purpose of maintaining her neutrality, I consider that the mode of proceeding in such circumstances most consistent with her Majesty's dignity and most proper for the vindication of her territorial rights would have been to prohibit the exercise of any further control over the Tuscaloosa by the captors, and to retain that vessel under her Majesty's control and jurisdiction until properly reclaimed by her original owners.”

Now, I must say, as the general tenor of the despatch is founded on the opinion of the law officers of the crown, that the Duke of Newcastle, in this instance, as I would have done in his place, went somewhat beyond that opinion. The law officers said, “It is worthy of serious consideration,” meaning that it was a point evidently deserving of being maturely weighed. The Duke

of Newcastle, however, clearly saw that it was a point which he must decide for the time, and that his instructions to the governor must be explicit. I am at the same time ready to admit that this is a question which turns on a nice point of international law, arising under circumstances which are quite new, owing to the fact that the Confederate States have no port to which they can send their prizes. The point, therefore, is open to further consideration, whether the proper treatment of such vessels should not be to warn them off. But to say that the question can be decided in the courts of the captors is, I think, altogether an error. The noble and learned lord went on to say that if this case had occurred to the federals there would have been an angry remonstrance, but that we should finally have apologized. Now, we have, in my opinion, heard enough of this kind of allegation. Does the noble lord think that in the case of the Trent, in which our honor was involved, her Majesty's government played either a mean or truckling part? It will be seen, I may add, that when only the other day a federal vessel violated the neutrality of British waters in the case of the Chesapeake, the federal government made ample satisfaction for that violation; but these acts of justice on the part of the United States in answer to the representatives of her Majesty's government noble lords opposite deem it right to pass over in silence. We were told early in the session that the case of the Saxon was a dreadful violation of the neutrality of England; that a murder had been committed, and that the offender ought to be tried. That case, however, was brought before the United States courts, and justice has, in the main, been done to the owners of the vessel. Then, with regard to the killing of the mate, the United States government ordered the officer who perpetrated the act to be tried by court-martial, and, in accordance with a representation made to them, consented to have the informations laid before the court amended, so that the noble and learned lord had no good ground for saying that they refused to do an act of justice when their attention was drawn to the subject. It appears to me that in all these cases the right course to pursue is that of perfect neutrality, and that we ought not to show ourselves to be animated by a feeling of partiality either on the one side or the other. [Hear, hear.]

Lord KINGSDOWN said that the question involved in the present discussion was one of the most important that had arisen out of the application of the principles of international law. Sir B. Walker, to whom allusion had been made, had rested his case upon the supposition that a prize remained the property of the original owner until it had been condemned by a court of legal adjudication. That also was the principle on which, so far as he understood, the government and the Duke of Newcastle in his despatch acted, but he confessed it was a great relief to him to find that in writing that despatch the noble duke had gone beyond the opinions of the law officers of the crown, on whose judgment and learning the utmost reliance was to be placed. The question of capture, he might add, as between belligerents, was conclusive when the capture was made. It required no adjudication. The moment one belligerent obtained possession of the goods of another, they were as much his property as if they had been condemned by all the prize courts in Europe. In that view of the subject he was supported by Wheaton, who said: "The obligation of a captor to bring his captures into port for inquiry and adjudication depends on the instructions which he has received from his own government. But this obligation under the law of nations exists only with respect to vessels navigated under the neutral flag, the object being to ascertain whether the property belongs to a neutral or an enemy. Enemies cannot claim a right that their property, upon capture by a belligerent cruiser, should be taken into the port of the belligerent, or his ally, for inquiry and adjudication. Capture alone divests an enemy of his property. Upon the surrender of a vessel under an enemy's flag on the high seas a belligerent may destroy her under the general law of nations, and

if the captor is unable to bring her into port, he will be justified towards his own government in destroying her. [Hear, hear.] Let their lordships observe what had been done in the present case. Her Majesty had forbidden armed vessels, with their prizes, to come into her ports. According to law, if a ship-of-war with her prize entered a British port she could be ordered away, but he was at a loss to understand how our government obtained the right to take possession of the Tuscaloosa. [Hear, hear.] That vessel had violated the proclamation of her Majesty, and might have been sent away, but how could she become confiscated and liable to seizure by our government? Even supposing it could be said that the violation of the laws of neutrality of which she had been guilty entitled the British government to seize her and confiscate her to the crown, their lordships would observe that the conduct pursued by our authorities was based upon an entirely different ground. Their argument was that the Tuscaloosa having come under their control, they were entitled to seize her and restore her to the original owner, forgetting that the original owner was Captain Semmes, she never having been recaptured. [Hear, hear.] It was highly important that there should be no mistake on this point, because the Confederate States could not obtain adjudication in their own ports, to which access was barred by a blockade, recognized by Europe, and under any circumstances the enforcement of the laws of neutrality must operate with very different force upon one belligerent and upon the other. What, then, was the opinion of Lord Stowell upon the want of adjudication? Lord Stowell was reported to have held, when a captor could not bring in his prize, that

"Nothing is left to the belligerent vessel but to destroy the vessel which she has taken, for she cannot consistently with her general duty to her own country, or, indeed, under its express injunctions, permit enemy's property to sail away unmolested. If it should be impossible to bring her in, her next duty is to destroy enemy's property."

It was laid down everywhere in the same way that adjudication had nothing to do with the matter except as between neutrals, and that the moment an enemy's ship had struck her flag and was taken possession of by an officer of the other belligerent she became the property of her captor, and remained so until she was recaptured. [Hear, hear.] There was no ground for saying, as had been said in the present case, that the Tuscaloosa having innocently come into the power of our government she was liable to seizure, and that the effect was to revest the property in the original owner, because there had been no adjudication. The law was so clear that it could not be misunderstood:

"Every capture of a vessel is complete as between the belligerents when the surrender has taken place, and the *spes recuperandi* is gone; but as between the original owner of the vessel and a third party in respect of the *jus postliminii*, if the vessel should be recaptured, or as between the captor of the vessel and a third party in respect of the right of the former to dispose of the vessel in favor of the latter by way of sale, positive rules have been introduced, partly from equity to extend the *jus postliminii* in favor of the original owner, partly from policy to prevent any irregular conversion of property before it has been ascertained to have been lawfully acquired *jure belli*."

He did not say that any blame was to be attributed to our officers at the Cape. What he complained of was that they had misapplied a general principle of law, which had no reference to the circumstances of the present case, and, but for the interference of his noble and learned friend, might have involved us in great difficulties. So satisfied was he that the doctrine he had stated was correct, that he had no objection to leave it to the law officers of the crown themselves to say whether or not there had been a forfeiture of the Tuscaloosa. [Hear, hear.]

The LORD CHANCELLOR. I am always unwilling, in a matter of this kind, to take part in the debate, because no noble and learned lord who is in the habit

of attending here on appeals can feel certain that some question on which he gives his opinion in the house in his deliberative character may not come before him in his judicial capacity, when he may be considerably embarrassed by his speech. It is in that spirit of caution that I rise now, because my noble and learned friend who has just spoken has expressed opinions which, if they went forth to the world on his authority and in no respect questioned or modified, might be received as doctrines which had commanded the assent of your lordships. I should have been glad if my noble and learned friend had examined the cases which have been cited. Let me beg him to observe the case of the *Actæon*. [Lord KINGSDOWN: It was the *Endymion* I referred to.] Then that is a still stronger case. Sir W. Scott says:

"There was no doubt that the *Endymion* had a full right to inflict it (that is, the burning of the vessel) if any grave call of public service required it. Regularly, a captor is bound by the law of his own country, conforming to the general law of nations, to bring in for adjudication, in order that it may be ascertained whether it be enemy's property; and that mistakes may not be committed by captors in the eager pursuit of gain, by which injustice may be done to neutral subjects, and national quarrels produced with the foreign states to which they belong."

Thus, the very case on which my noble and learned friend rested his argument would, if he had examined it, have led him to the conclusion that the old rule by which the object seized became at once the property of the captor has been qualified by the more merciful usage of civilized nations, and that there is an obligation to obtain condemnation; and Sir W. Scott distinctly explains that this law has been established in order to place some control upon captors, that, in the pursuit of gain, they might not be led to commit injustice. The case of the *Endymion* was this: She was on a cruise in search of the American frigate *President*, and in the course of her cruise she captured an American merchantman. She was, however, so confined by her instructions to continue cruising that she could not bring her prize into court, but burnt it at sea. Afterwards a claim was brought by the owner of the prize for damages in consequence of its destruction, and Sir W. Scott held that the captor was excused from the obligation of bringing in the prize for adjudication by reason of the express and stringent nature of his instructions, which did not allow him to quit the sea. But there is not only that opinion. My noble and learned friend will find that Lord Mansfield, the greatest authority in English law, held the same view. I would also direct his attention to the remarks which Lord Stowell made in the case of the *Flad Oyen*. (1 Rob., page 135.) It was the case of a ship taken by a French privateer, and carried into a port in Norway, where she underwent a sort of process which terminated in a sentence of condemnation pronounced by the French consul. It was therefore a case of capture by a belligerent. Lord Stowell, in that case, said:

"But another question has arisen in this case upon which a great deal of argument has been employed—namely, whether the sentence of condemnation which was pronounced by the French consul is of such legal authority as to transfer the vessel, supposing the purchase to have been *bonâ fide* made? * * It has frequently been said that it is the peculiar doctrine of the law of England to require a sentence of condemnation, as necessary to transfer the property of prize; and that, according to the practice of some nations, twenty-four hours, and, according to the practice of others, bringing *infra præsidia*, is authority enough to convert the prize. I take that to be not quite correct, for I apprehend that, by the general practice of the law of nations, a sentence of condemnation is at present deemed generally necessary, and that a neutral purchaser in Europe, during war, does look to the legal sentence of condemnation as one of the title-deeds of the ship, if he buys a prize vessel. I believe there is no instance in which a man, having purchased a prize vessel of a belligerent, has thought

himself quite secure in making that purchase, merely because the ship has been in the enemy's possession twenty-four hours, or carried *infra præsidia*."

Without saying that there may not be contradictory passages found in a great variety of writers, I think the passages I have quoted are sufficient to show that property is not, as a rule, transferred by the mere fact of capture, and the reason why the old rule has thus been qualified by the general practice of nations is, as stated by Sir W. Scott, the necessity of putting some limitation on the act of the captor. Nothing in the world can illustrate that so strongly as the case of the *Endymion*, which has been referred to, where the captor was not held to be justified in destroying his prize, except by reason of the urgency of the service on which he was engaged, because otherwise he would have been held to be under an obligation to bring the ship to a court for adjudication. Hence this question is, in the language of the law officers, worthy of very serious consideration. There may be no instance precisely parallel, but at the same time the law officers were perfectly justified in the opinion they gave that the matter required serious consideration. Serious consideration has been given to it, and the result will be embodied in clear and definite instructions which will be generally circulated throughout all our colonial possessions. The only point in which the despatch in question is open to challenge is that it speaks of the course taken as being deemed the best, instead of saying that the question deserved very serious consideration; but it should be borne in mind that the despatch was written in regard to a past transaction, and that it did not lay down a rule, but merely described the application which had already been made of one. [Hear, hear.]

The Earl of HARDWICKE said he had looked into the history of the American war and had found a case bearing on the present question in every respect, with the exception that the captor was not a neutral but a belligerent. It was a case which happened in 1813, when a United States frigate captured a number of whalers, which were immediately afterwards retaken by the English. One of the vessels seized was the *Georgina*. Captain Porter, thinking the vessel a very good one, armed her with sixteen guns and put a body of men on board. In that state, and never having been condemned in any prize court in the United States, she was recaptured by a British brig, and the case was brought before a British prize court. On the 26th of April, 1814, Sir William Scott gave a decision, condemning the vessel to the captors.

Lord CHELMSFORD said he understood the noble and learned lord to state that the Duke of Newcastle's instructions had been modified, and in that case he thought that their lordships were entitled to know the nature of the modifications.

The LORD CHANCELLOR explained that what he had said was that the instructions were under consideration.

The house then adjourned at twenty-five minutes to eight o'clock.

THE SEIZURE OF THE TUSCALOOSA.

Upon the motion for going into committee of supply,

Mr. PEACOCKE rose to call attention to the subject of which he had given notice, and thought when the house was made acquainted with the facts, that they would agree with him that it was a subject worthy of their most serious consideration. It would appear that the confederate vessel-of-war the *Alabama*, under the command of Captain Semmes, captured, off the coast of Brazil, a federal bark, the *Conrad*, which he armed and converted into a tender to the *Alabama*, under the confederate flag. Some weeks afterwards Captain Semmes had occasion to proceed to the vicinity of the Cape, accompanied by the tender,

then called the Tuscaloosa, and he informed the authorities at the Cape that his vessel needed some repairs, and that the Tuscaloosa was a tender to his ship, cruising off the coast. When that information reached the authorities at the Cape, there began a correspondence to which he should have to call attention. In the first place, he must observe that a valuable and esteemed friend—no less a person than Sir Baldwin Walker—was the admiral on the station, and it would be a consolation to that gallant officer's admirers to know that although so distant from this country he still displayed the same amount of party zeal which distinguished him at home. [Hear, hear.] Sir B. Walker immediately wrote to the governor of the Cape to know how the Tuscaloosa was to be treated, and he was informed that in the opinion of the attorney general of the colony that vessel must be regarded as a tender and not as a prize. But Sir B. Walker was not satisfied, and he again asked the governor how the vessel should be treated, and then he was referred to Wheaton, to show that if certain conditions were complied with, she must be treated as a tender and not as a prize. That reply reduced Sir B. Walker to submission, but not to silence, so he wrote home at once to the admiralty a despatch, in which he said :

"I would submit to their lordships' notice, that the power of a captain of a ship-of-war to constitute every prize he may take a 'tender' appears to me to be likely to lead to abuse and evasion of the laws of strict neutrality."

Under the difficulties which might possibly arise it could hardly be a matter of congratulation that we had a second Commodore Wilkes commanding at that station. These facts were duly reported by Sir Philip Wodehouse to the Duke of Newcastle, who also forwarded the claim which had been made by the United States consul at the Cape. He would read to the house the grounds upon which the claim was made by Mr. Graham :

"I am well aware that your government has conceded to the so-called Confederate States the rights of belligerents, and is thereby bound to respect Captain Semmes's commission ; but having refused to recognize the 'confederacy' as a nation, and having excluded his captures from all the ports of the British empire, the captures necessarily revert to their real owners, and are forfeited by Captain Semmes as soon as they enter a British port."

Now, as her Majesty's government had thought fit to indorse that claim, he would ask whether her Majesty's government acquiesced in the reasons which were urged in its favor. Meanwhile, Mr. Adams had not been idle. He brought a good deal of pressure to bear upon Lord John Russell, who wrote the following despatch in compliance with his demands :

"I acquainted you, in my letter of the 2d instant, that the matters connected with the proceedings of the confederate steamer Alabama at the Cape of Good Hope, to which your letter on the 29th of September referred, were under the consideration of her Majesty's government. Those matters were : 1. The capture, by the Alabama, of the United States vessel Sea Bride, within, as was alleged, the territorial jurisdiction of Great Britain. 2. The character of the Alabama herself. 3. The manner in which the Tuscaloosa, alleged to be a tender of the Alabama, was dealt with by the authorities of the Cape. On these several points I have to state to you—1. That her Majesty's government are satisfied by the concurrent testimony of the colonial and naval authorities at the Cape, that at the time of the capture the Sea Bride was considerably more than three miles distant from the nearest land. 2. That as regards the character of the Alabama, that vessel is entitled to be treated as a ship-of-war belonging to a belligerent power, and that neither the governor nor any other British authority at the Cape was entitled to exercise any jurisdiction over her. 3. That as regards the Tuscaloosa, although her Majesty's government would have approved the British authorities at the Cape if they had adopted towards that vessel a course different from that which was adopted, yet the question as to the manner in which a vessel under such circumstances should, according to the

tenor of her Majesty's orders, be dealt with, was one not altogether free from uncertainty. Nevertheless, instructions will be sent to the British authorities at the Cape for their guidance in the event of a similar case occurring hereafter, and her Majesty's government hope that under those instructions nothing will for the future happen to admit of a question being raised as to her Majesty's orders having been strictly carried out."

Now, the house would observe that there was at least one pleasing feature in the despatch, because it showed that there was, at all events, one country to which her Majesty's secretary for foreign affairs could be courteous or even submissive. [Hear, hear.] He could picture to himself the surprise with which the ambassadors of Russia, Austria, Prussia, and even France would have received the despatch, and he would venture to assert that if such a despatch were addressed to any of the smaller powers of Europe, such as Portugal or Greece, the document would be looked upon as a hoax, and the signature as a forgery. [Hear, hear.] These were not mere idle words upon the part of Lord Russell. The promise was fulfilled to the letter, and in consequence of this promise a most extraordinary despatch was sent out from the colonial office to Sir Philip Wodehouse. He believed he was stating an undoubted fact when he asserted that although the despatch was signed by the Duke of Newcastle, it was no more that nobleman's than it was his own, the colonial office acting merely as an official channel for the transmission of the despatch from the foreign office. He would begin by calling attention to the 7th paragraph :

"Whether, in the case of a vessel duly commissioned as a ship-of-war, after being made prize by a belligerent government, without being first brought *infra præsidia* or condemned by a court of prize, the character of prize, within the meaning of her Majesty's orders, would or would not be merged in that of a national ship-of-war, I am not called upon to explain."

He regarded the case cited as being precisely the one in which such an explanation was called for. The despatch went on to say :

"I think it right to observe that the third reason alleged by the attorney general for his opinion assumes (though the fact had not been made the subject of any inquiry) that 'no means existed for determining whether the ship had or had not been judicially condemned in a court of competent jurisdiction,' and the proposition that, 'admitting her to have been captured by a ship-of-war of the Confederate States, she was entitled to refer her Majesty's government, in case of any dispute, to the court of her states, in order to satisfy it as to her real character.' This assumption, however, is not consistent with her Majesty's undoubted right to determine within her own territory whether her own orders, made in vindication of her own neutrality, have been violated or not."

The conclusion of the report was as follows :

"I think that the allegations of the United States consul ought to have been brought to the knowledge of Captain Semmes while the Tuscaloosa was still within British waters, and that he should have been requested to state whether he did or did not admit the facts to be as alleged. He should also have been called upon (unless the facts were admitted) to produce the Tuscaloosa's papers. If the result of these inquiries had been to prove that the vessel was really an uncondemned prize, brought into British waters in violation of her Majesty's orders made for the purpose of maintaining her neutrality, I consider that the mode of proceeding in such circumstances, most consistent with her Majesty's dignity, and most proper for the vindication of her territorial rights, would have been to prohibit the exercise of any further control over the Tuscaloosa by the captors, and to retain that vessel under her Majesty's control and jurisdiction until properly reclaimed by her original owners."

Now, he did not believe that there was any learned gentleman in the house who would rise in his place and defend the legality of those instructions. [Loud cries of "Hear, hear."] Let there be no mistake upon the point. He asked

the honorable and learned member for Richmond (the attorney general) if he was prepared to stake his professional reputation in defence of those instructions, for it was a well-known principle of international law that the property of one belligerent when seized by another became the property of the captor. [Hear, hear.] It was, therefore, as much in accordance with the principles of international law to order our governor at the Cape to seize the vessel and hand it over to the Emperor of Russia as to transmit such a despatch as the one he had just read. He believed it to be but fair to state that he thought those instructions were not issued in accordance with the advice of the law officers of the crown, but simply and solely upon the responsibility of her Majesty's government. He regarded them simply as a weak and illegal concession by Lord Russell to the demands of Mr. Adams. [Hear, hear.] Sir P. Wodehouse replied :

"Your grace intimates that the citation from this authority by the acting attorney general does not appear to have any direct bearing upon the question. You will assuredly believe that it is not from any want of respect for your opinion, but solely from a desire to avoid future error, that I confess my inability to understand this intimation, [loud cries of "Hear, hear,"] or, in the absence of instructions on that head, to see in what direction I am to look for the law bearing on this subject. The paragraph cited made no distinction between a vessel with cargo and a vessel without cargo; and your grace leaves me in ignorance whether her character would have been changed if Captain Semmes had got rid of the cargo before claiming for her admission as a ship-of-war. Certainly, acts have been done by him which, according to Wheaton, constituted a 'setting forth as a vessel-of-war.' Your grace likewise states, 'Whether in the case of a vessel duly commissioned as a ship-of-war, after being made prize by a belligerent government, without being first brought *infra praeidia*, or condemned by a court of prize, the character of prize, within the meaning of her Majesty's orders, would or would not be merged in a national ship-of-war, I am not called upon to explain.' I feel myself forced to ask for further advice on this point, on which it is quite possible I may be called upon to take an active part. I have already, in error, apparently, admitted a confederate prize as a ship-of-war. The chief authority on international law to which it is in my power to refer is Wheaton, who apparently draws no distinction between ships-of-war and other ships when found in the position of prizes, and I wish your grace to be aware that within the last few days the commander of a United States ship-of-war observed to me that if it were his good fortune to capture the Alabama he should convert her into a federal cruiser." [Hear, hear.] "I trust your grace will see how desirable it is that I should be fully informed of the views of her Majesty's government on these points, and that I shall be favored with a reply to this despatch at your earliest convenience."

He had only to add that his grace had not considered it desirable to furnish Sir Philip Wodehouse with the information he required, nor to reply to him at his earliest convenience, for no answer had been sent up to the present time, or at all events there was no reply included in the papers before the house. [Hear, hear.] On the return of the Tuscaloosa to the Cape they found their old friend Admiral Sir Baldwin Walker writing—

"As it appears that this vessel, the Tuscaloosa, late federal ship Conrad, is an uncondemned prize, brought into British waters in violation of her Majesty's orders, made for the purpose of maintaining her neutrality, I therefore consider that she ought to be detained, with the view of her being reclaimed by her original owners, in accordance with the opinion of the law officers of the crown, forwarded for my guidance, the copy of which I have already transmitted to you."

He believed that when the honorable and learned member for Richmond rose to address the house, he would not defend that statement, but observe a discreet silence upon the point. ["Hear, hear," and a laugh.] The noble lord at the

head of the government said that it was not the custom to lay on the table the opinions of the law officers, and that those opinions were confidential, and were intended only for the guidance of the government. He concurred with this statement; but why, then, was not the opinion of the law officers embodied in a despatch, and why was not that despatch communicated to the authorities at the Cape for their information and guidance? [Hear, hear.] Whenever a point of international law arose, a very bad practice had grown up. A minister stated that he had taken the opinion of the law officers, and, as this opinion could not be produced, the jurisdiction of the house was limited, and they were unable to discuss satisfactorily a question of policy. Responsibility was thus shuffled off, if even the paper was ultimately laid on the table. Here the authorities at the Cape were not responsible, for they had acted on a fair interpretation of the opinion forwarded to them. The ministry were hardly responsible, for they had been little more than the official channel for sending the opinion of the law officers to the Cape. And lastly, the law officers could not be regarded as responsible, because they had only made a confidential communication to the ministry. He hoped that the noble lord, who seemed to be aware of the unconstitutional nature of the practice, would put a stop to it as regarded his colleagues. Though they had not got the opinion of the law officers, the house might arrive at some approximate idea of what that opinion was from the answers given to questions which Sir Baldwin Walker, in accordance with instructions, put to the commander of the *Tuscaloosa*. From this it appeared that the vessel was sailing under the confederate flag; that her commander was Lieutenant Low, late of the *Alabama*; that she had on board four officers and twenty men; that she had three small brass guns, two rifled 12-pounders, and a smooth-bore; that she was cruising, and had put in to the Cape for repairs and supplies; that she was a federal ship, captured by the *Alabama*, and commissioned by Captain Semmes, without being condemned by any prize court, and that there was no cargo on board. Now, what was the law of this question? Wheaton said that the jurisdiction of the national courts of the captor to determine the validity of captures made in war under the authority of the government was conclusive of the judicial authority of every other country, with two exceptions only: 1, when the capture was made within the territorial limits of a neutral state; and 2, when it was made by armed vessels fitted out within the neutral territory. Neither of these exceptions applied here. In the case of the *Exchange*, an American vessel seized by the French, and armed by them, and which afterwards entered under the French flag the port of Philadelphia, where she was attached, Chief Justice Marshall said:

"It seems, then, to the court to be a principle of public law that ships-of-war entering the port of a friendly power open for their reception are to be considered as exempted by the consent of that power from its jurisdiction. * * * * * The arguments in favor of this opinion have been drawn from the general inability of the judicial power to enforce its decisions in cases of this description, from the consideration that the sovereign power of the nation is alone competent to avenge wrongs committed by a sovereign; that the questions to which such wrongs give birth are rather questions of policy than of law; that they are for diplomatic rather than legal discussion."

In other words, if the English government had wished to raise any question in this case, they should have raised it at Richmond, and not at the Cape. In the case of the *Santissima Trinidad*, Chief Justice Story said:

"Nor will the courts of a foreign country inquire into the means by which the title to property has been acquired. It would be to exert the right of examining into the validity of the acts of the foreign sovereign, and to sit in judgment upon them in cases where he has not conceded the jurisdiction, and where it would be inconsistent with his own supremacy. The commission, therefore, of a public ship when duly authenticated, so far at least as foreign courts are

concerned, imparts absolute verity, and the title is not examinable. The property must be taken to be duly acquired, and cannot be controverted."

These opinions established the fact that if there was a commission you could not look behind it, and the only question remaining, therefore, was whether Captain Semmes had any right to grant this commission. In the case of the Ceylon, which was an English East Indiaman, captured by some French frigates, supplied with carronades, and a crew of seventy men, and which then cruised under the command of a lieutenant, with a commission from a commodore, Sir W. Scott said:

"I hold it to be necessary that she should have been regularly commissioned; it is enough that she was employed in the public military service of the enemy by those who had competent authority so to employ her."

Sir W. Scott then quoted the case of the *Castor*, which ship was not carried into port, and added:

"There was no regular commission, for it is not in the power of the admiral to grant a regular commission; he has only an inchoate authority for such a purpose, and his acts necessarily require confirmation. Yet in that case it was held that the ship, though commissioned by the admiral alone, was sufficiently clothed with the character of a vessel-of-war. * * * We know extremely well that in remote parts of the world where the domestic authority cannot be immediately resorted to, the commanders are of necessity vested with larger powers than are usually intrusted to them when employed on European stations. I think this vessel was sufficiently commissioned by the French commander on the station. This *lieutenant de vaisseau* and seventy men were put on board by his order in the first instance, subject undoubtedly to the approbation of the French minister of marine; but can I doubt that this appointment would have been confirmed by the constituted authorities at home in the present situation of the French navy?"

Could the government doubt that the commission granted by Captain Semmes would have been duly confirmed by the authorities of Richmond? [Hear, hear.] Another case, that of the *Georgiana*, was stronger still, and seemed to be exactly on all-fours with the present. The *Georgiana* was a British whaler, captured by the American frigate *Essex*. The American captain, without taking his prize into port, or taking out the cargo, supplied her with ten additional guns and sixty men, and employed her, under one of his lieutenants, to cruise against British vessels. The force with which she had been supplied was subsequently reduced, and when she was taken she had only four guns and fifteen men on board. In that case, Sir W. Scott held that she was sufficiently set forth for war, and that a commander of a single vessel had the same authority to grant a commission as a commodore. It seemed to him that, unless the law officers could override this decision by Lord Stowell, it was decisive of the question. It had been commonly our practice to commission vessels captured from an enemy, and this practice was so commonly received that the American captain at the Cape told the authorities there that if he captured the *Alabama* he would turn her into a federal cruiser. [Hear.] It was a curious fact that the government had taken no notice of these despatches until March 4, and the dates coincided exactly with the time when this subject was taken up by the house. The government, when pressed on the subject, adopted the hasty conclusion of writing to say, "We give up the vessel," but they took a week to wrangle among themselves as to the reasons which should be assigned for that conclusion. In a despatch of March 10, the Duke of Newcastle stated to Sir P. Wodehouse:

"I have now to explain that this decision was not founded on any general principle respecting the treatment of prizes captured by the cruisers of either belligerent, but on the peculiar circumstances of the case. The *Tuscaloosa* was allowed to enter the port of Cape Town and to depart, the instructions of the 4th of November not having arrived at the Cape before her departure. The captain of

the Alabama was thus entitled to assume that he might equally bring her a second time into the same harbor, and it becomes unnecessary to discuss whether, on her return to the Cape, the Tuscaloosa still retained the character of a prize, or whether she had lost that character, and had assumed that of an armed tender to the Alabama, and whether that new character, if properly established and admitted, would have entitled her to the same privilege of admission which might be accorded to her captor, the Alabama. Her Majesty's government have, therefore, come to the opinion, founded on the special circumstances of this particular case, that the Tuscaloosa ought to be released, with a warning, however, to the captain of the Alabama, that the ships-of-war of the belligerents are not to be allowed to bring prizes into British ports, and that it rests with her Majesty's government to decide to what vessels that character belongs."

That was not any answer to the question of Sir Philip Wodehouse as to how he was to act. The characteristic of the despatch was uncertainty. It was evident the government wished to shift the responsibility off their own shoulders, ready to condemn the governor if he was wrong, and equally ready to take advantage of his conduct if it was such as to suit their purpose. The governor was expected to arrive at the conclusion that the vessel was released because she was a vessel-of-war, but they did not state that. He was to arrive at it by implication. He asked the house whether that was not an unworthy manner of dealing with servants of the crown? [Hear, hear.] The government ought not to involve their agents abroad in legal subtleties which they themselves refused to solve, or in diplomatic difficulties which they refused to explain. [Hear, hear.] Against the instructions of November he pointed his resolution. If they were to be put in force against one power they must be put in force against another. If we put them in force against a strong power we involved the country in war; if we used them only against a weak one, we covered England with indelible shame. [Hear, hear.] Viewing those instructions as a standing danger to the country, he asked the house to adopt the resolution which he now begged leave to move, "That the instructions contained in the despatch of the Duke of Newcastle to Sir P. Wodehouse, dated the 4th day of November, 1863, and which remain still unrevoked, are at variance with the principles of international law."

The SOLICITOR GENERAL said the honorable member who had moved the resolution did not ask the opinion of the house on a question of policy, but asked their judgment on a pure question of international law. He did not specify any objection he had to the despatch of the Duke of Newcastle, but left his objection to be gathered from the tenor of his speech. In replying to the honorable member, he was far from denying the perfect right of the house to entertain questions of international law; but if the house were to entertain them they should approach them in a judicial character, for questions of international law were not questions of a party character. [Hear, hear.] And it appeared to him that the house ought to well consider before by any resolution they affirmed or denied any principle of international law. We were neutrals now, and took a neutral's view of those questions; but the day might not be far distant when we might be belligerents, and when any decision at which the house arrived at this moment might be used against England. [Hear, hear.] They might, in fact, be forging a weapon to be used against themselves. The first question to be considered in this case was, whether the vessel when she came into Simon's bay was a naval prize, or had lost the character of a prize, and assumed the new character of a vessel-of-war?

There was no doubt of this—that if she had been a prize she had not the less been brought into any of the ports of the United States to be adjudicated upon; but had she been converted from a prize into a vessel-of-war? Now, international, like all other law, knew how to distinguish between realities and shams. If in one of the courts it appeared that a trader had passed his property by a

bill of sale to a friend, even though all the formalities had been adopted, the court would inquire as to whether the transaction was real or was merely a pretence—whether the trader really meant to convey his property, or merely intended to deceive his creditors. There was nothing in international law which required them to bandage their eyes; and he thought that, when they looked at the evidence in this case, they could see beyond doubt that the supposed conversion of this prize into a man-of-war was a mere pretence. When a federal or a confederate brought a vessel into one of our ports, and said, "This is a vessel of war," was there to be no inquiry? If so, any vessel might be brought into one of our ports in defiance of the Queen's order. The honorable gentleman had referred to Sir B. Walker, and certainly he must here express his surprise that the honorable gentleman had thought it worthy of him to attack that gallant and distinguished officer. [Hear, hear.] His case could not be very strong if it required to be supported by such unfounded and ungenerous attacks. What difference on earth could it make personally to Sir B. Walker whether this was a vessel-of-war or not? But certainly if there was any man who could tell the difference between a merchantman and a vessel-of-war, it was Sir B. Walker. [Hear, hear.] Captain Semmes, before he came into Simon's bay, had ordered the Tuscaloosa to meet him there. He saw the governor, and the communication he had made to the governor was that he had fitted and equipped the Tuscaloosa as a tender, and that she was then a vessel in the confederate navy. Not a single word was said then as to any real or supposed commission. The colonial attorney general was then consulted, and his opinion was that upon that statement it was not necessary to prevent the Tuscaloosa coming into port. It was unnecessary to determine whether the attorney general was right or wrong in his opinion, and it never had been the intention either of the law officers of the crown or of the government to impute the slightest blame to the colonial attorney general. [Hear, hear.] In his last despatch the Duke of Newcastle expressly disclaimed casting any imputation upon him. The government differed from his second, if not from his first opinion, but it would be highly improper if they had attempted to blame him for the conclusion at which he had arrived on a difficult question, which might well be argued for seven days, as in a late well-known case, before four learned judges, who in the end might be divided in opinion. [Hear, hear.] Sir B. Walker's opinion on the state of things would be found at page 3 of the papers. He said:

"The vessel in question, now called the Tuscaloosa, arrived here this evening, and the boarding officer from my flag-ship obtained the following information: That she is a bark of 500 tons, with two small rifled 12-pounder guns and ten men, and was captured by the Alabama, on the 21st of June last, off the coast of Brazil; cargo of wool still on board."

[Hear, hear.] These guns, it appeared, were guns which had been taken from another prize; they were no portion of the Alabama's armament. [Hear, hear.] Sir B. Walker then went on to say:

"The admission of this vessel into port will, I fear, open the door for numbers of vessels captured under similar circumstances being denominated tenders, with a view to avoid the prohibition contained in the Queen's instructions; and I would observe that the vessel Sea Bride, captured by the Alabama off Table bay a few days since, or all other prizes, might be in like manner styled tenders, making the prohibition entirely null and void. I apprehend that, to bring a captured vessel under the denomination of a vessel-of-war, she must be fitted for warlike purposes, and not merely have a few men and two small guns put on board her (in fact nothing but a prize crew) in order to disguise her real character as a prize. Now this vessel has her original cargo of wool still on board, which cannot be required for warlike purposes, and her armament and the number of her crew are quite insufficient for any services other than those

of slight defence. Viewing all the circumstances of the case, they afford room for the supposition that the vessel is styled a 'tender' with the object of avoiding the prohibition against her entrance as a prize into our ports, where, if the captors wished, arrangements could be made for the disposal of her valuable cargo, the transshipment of which, your excellency will not fail to see, might be readily effected on any part of the coast beyond the limits of this colony."

Following up this suggestion, he would read to the house the letter of the American consul to the governor. This gentleman said:

"The Tuscaloosa remained in Simon's bay seven days, with her original cargo of skins and wool on board. This cargo, I am informed by those who claim to know, has been purchased by merchants in Cape Town; and if it should be landed here directly from the prize, or be transferred to other vessels at some secluded harbor on the coast beyond this colony, and brought from thence here, the infringement of neutrality will be so palpable and flagrant that her Majesty's government will probably satisfy the claims of the owners gracefully and at once, and thus remove all cause of complaint. In so doing it will have to disavow and repudiate the acts of its executive agents here—a result I have done all in my power to prevent."

If the house would bring to its recollection the case of the Saxon, which was brought under its notice a short time back, it would see that the information of the American consul was very good. [Hear, hear.] The cargo of the Tuscaloosa actually was deposited at a place just outside the limits of the colony, called Angra Pequena, and the Saxon was sent from Cape Town to fetch it. No man could doubt for a moment that the arrangement was made while the Tuscaloosa was at Simon's bay, and the object of this disguise, this sham, this imposture, was to make that arrangement. [Hear, hear.] That was the real transaction. The government were of opinion that, under the circumstances, the vessel did not lose her character as a prize, and that she had not obtained the character of a vessel-of-war. They were also of opinion that the passage from Wheaton which the colonial attorney general had fired at the admiral did not apply. That passage referred entirely to the construction of the words of a municipal statute which this country and the United States, in pretty nearly the same words, were in the habit of passing at the breaking out of a war, for the simple object of regulating the distribution of prize money. It was to the effect that if a merchant vessel were captured by the enemy, and if subsequently she were recaptured by one of our own vessels, then, if she had been "set forth as a vessel-of-war," her proceeds would go to her captors; but if she remained a merchant vessel, then she would revert to her original owners, paying salvage. That was the sole object of the statute, and it had no reference whatever to international law. [Hear, hear.] The house would see, therefore, that the question which arose in this case could not possibly arise under that statute, because the enemy could have no object in colorably and ostensibly setting forth a vessel as a vessel-of-war; since it was no matter to him, if she were recaptured, to whom her proceeds would go. No doubt it was easy for any one reading only the passage by itself, without referring to the authorities, to be misled by it. This was what Wheaton said:

"Thus it has been settled, that where a ship was originally armed for the slave trade, and after capture an additional number of men were put on board, but there was no commission of war and no additional arming, it was not a setting forth as a vessel-of-war under the act. But a commission of war is decisive if there be guns on board, and where the vessel, after the capture, has been fitted out as a privateer it is conclusive against her, although, when recaptured, she is navigating as a mere merchant ship."

He had taken the trouble to ascertain on what authority that was rested, and he found it to be the case of the Ceylon, in the 1st volume of Dodson's Reports. Here were the words of Lord Stowell's judgment:

"She had on board 26 guns, 110 men, with arms and ammunition of every description in sufficient quantities for offensive and defensive operations. * * She sustained an engagement with British ships, and assisted in the destruction of the Sirius and Magicienne, and in the capture of two English frigates. Here, then, was an operation, not merely defensive, but an actual offensive attack, terminating in the destruction of the British blockading squadron. I cannot doubt that under these circumstances the ship was sufficiently 'set out for war.'"

He ventured to think that if Lord Stowell had had the case of the Tuscaloosa before him, and had had to determine the question whether she was set forth as a ship-of-war, he would, unquestionably, have said that she was not sufficiently set out for war. She was not armed; she had only ten men, hardly enough for navigating her, to say nothing of fighting; and she had her cargo on board, which made her almost unavailable for fighting purposes. She had not been employed for any hostile operations; and, further, Admiral Walker said that in his judgment she was not capable of attack or defence. His words were, "except of very slight defence." Now, if all the cases cited did apply—if the statute did apply—he ventured to say there was no case of setting out for war that would not exclude the Tuscaloosa. It therefore appeared to him perfectly clear that Admiral Walker was right in his view of that vessel not having lost her character of prize, and that unquestionably she ought not to be admitted as a man-of-war. This led him to the despatch that had been objected to by the honorable gentleman. The motion of the honorable gentleman would appear to intimate that every proposition of international law contained in that despatch was wrong, although he understood him to limit that by his speech. After referring to the Sea Bride the despatch said:

"With respect to the Alabama herself, it is clear that, neither you, nor any other authority at the Cape, could exercise any jurisdiction over her, and that, whatever may have been her previous history, you were bound to treat her as a ship-of-war belonging to a belligerent power."

He apprehended that honorable gentlemen opposite would admit that that was right. Then came this passage:

"With regard to the vessel called the Tuscaloosa, I am advised that this vessel did not lose the character of a prize captured by the Alabama, merely because she was, at the time of her being brought within British waters, armed with two small rifled guns, in charge of an officer and manned with a crew of ten men from the Alabama, and used as a tender to that vessel under the authority of Captain Semmes."

The honorable gentleman had imported into the case the state in which the vessel was when she returned at another time, but the real question was as to her state at the time when she first entered Simon's bay. [Hear, hear.] His grace's despatch went on to say:

"It would appear that the Tuscaloosa is a bark of 500 tons, captured by the Alabama, off the coast of Brazil, on the 21st of June last, and brought into Simon's bay on or before the 7th of August, with her original cargo of wool (itself, as well as the vessel, prize) still on board, and with nothing to give her a warlike character (so far as is stated in the papers before me) except the circumstances already noticed. Whether, in the case of a vessel duly commissioned as a ship-of-war, after being made prize by a belligerent government, without being first brought *infra prandia* or condemned by a court of prize, the character of prize, within the meaning of her Majesty's orders, would or would not be merged in that of a national ship-of-war, I am not called upon to explain. It is enough to say that the citation from Mr. Wheaton's book by your attorney general does not appear to me to have any direct bearing upon the question."

That was perfectly correct, for the question there was a question of fact, whether she was actually turned into a public vessel-of-war. It was clear that

she was not, and therefore the question did not arise of what would have been done if she had been. The Duke of Newcastle very properly eliminated points of difficulty which it was thus unnecessary to consider. The despatch continued :

"Connected with this subject is the question as to the cargoes of captured vessels which is alluded to at the end of your despatch. On this point I have to instruct you that her Majesty's orders apply as much to prize cargoes of every kind which may be brought by any armed ships or privateers of either belligerent into British waters as to the captured vessels themselves. They do not, however, apply to any articles which may have formed part of any such cargoes, if brought within British jurisdiction, not by armed ships or privateers of either belligerent, but by other persons who may have acquired or may claim property in them by reason of any dealings with the captors. I think it right to observe that the third reason alleged by the attorney general for his opinion assumes (though the fact had not been made the subject of any inquiry) that 'no means existed for determining whether the ship had or had not been judicially condemned in a court of competent jurisdiction,' and the proposition that, 'admitting her to have been captured by a ship-of-war of the Confederate States, she was entitled to refer her Majesty's government, in case of any dispute, to the court of her States, in order to satisfy it as to her real character.' This assumption, however, is not consistent with her Majesty's undoubted right to determine, within her own territory, whether her own orders, made in vindication of her own neutrality, have been violated or not."

He apprehended that the assertion of that proposition was necessary to the maintenance of any independent sovereignty. [Hear, hear.] Was it to be contended that when her Majesty issued an order directing that prizes should not be brought into her ports, if a federal or a confederate brought in a prize and said, "Oh! this is a vessel-of-war," her Majesty was not to determine the question? It was an admitted fact that the vessel had not been condemned or taken before any court of competent jurisdiction by the captor. The honorable member had referred to the case of the *Santissima Trinidad*; but if he had examined it he would have found that it affirmed, beyond all question, the doctrine for which he was now contending; because in that case the United States took upon themselves to determine whether a prize brought into their ports should or should not be restored to the original owners. They determined that question in their own courts. Ordinarily, the determination of the question of prize or no prize was for the court of the captor; but the United States, where the prize was brought into their ports in violation of their neutrality, claimed to determine, and did determine, that question. Therefore the case cited by the honorable gentleman was entirely fatal to his argument. He now came to the latter part of the despatch, which was in these terms :

"The question remains what course ought to have been taken by the authorities of the Cape—1. In order to ascertain whether this vessel was, as alleged by the United States consul, an uncondemned prize brought within British waters in violation of her Majesty's neutrality; and, 2d. What ought to have been done if such had appeared to be really the fact. I think that the allegations of the United States consul ought to have been brought to the knowledge of Captain Semmes while the *Tuscaloosa* was still within British waters, and that he should have been requested to state whether he did or did not admit the facts to be as alleged. He should also have been called upon (unless the facts were admitted) to produce the *Tuscaloosa's* papers. If the result of these inquiries had been to prove that the vessel was really an uncondemned prize, brought into British waters in violation of her Majesty's orders made for the purpose of maintaining her neutrality, I consider that the mode of proceeding in such circumstances, most consistent with her Majesty's dignity and most proper for the vindication of her territorial rights, would have been to prohibit

the exercise of any further control over the Tuscaloosa by the captors, and to retain that vessel under her Majesty's control and jurisdiction until properly reclaimed by her original owners." [Hear, hear.] On that subject he would deal quite frankly with the house. He would admit, on the part of her Majesty's government, that, upon reconsideration, [hear, hear,] he thought these instructions were not as full and explicit as they ought to have been—that was to say, as they should and would have been if meant to be used as a guide for colonial governors throughout the empire. But he would be allowed to observe that that despatch was not in the nature of a circular or order issued to the governors of colonies throughout the empire. It was merely a comment of the Duke of Newcastle on that particular transaction after it had passed, and when he had no reason to suppose that the Tuscaloosa would return. If it had occurred to his grace as probable that she would return—and he would hardly be blamed for not foreseeing what, after all, was a remote possibility—the despatch would have contained some further instructions, such instructions as were subsequently given, to the effect that inasmuch as the Tuscaloosa was, rightly or wrongly, treated as a vessel-of-war after she came into their ports, and after her real character was ascertained, she should have been warned. If it had occurred to the Duke of Newcastle, provision might have been made in the despatch for possible circumstances, and, undoubtedly, some fuller instructions would have been advisable to the effect that before a vessel-of-war was allowed to bring in a prize she should have been warned. He might inform the house that this subject had received the serious consideration of the government, and instructions were about to be sent by way of a circular to the colonial governors of this country. These instructions were, in fact, drawn up, though they had not yet been sent off. Ample and detailed instructions would be given, which would hereafter prevent any difficulty to colonial governors and law officers. He was at liberty to say that those instructions would in a very short time be laid on the table. The house would, therefore, see that this was an isolated case, and not likely to be drawn into a precedent. [Hear, hear.] But, having said thus much, he now proceeded to the question raised by the honorable gentleman, whether this despatch asserted doctrines at variance with the principles of international law. He contended that it did not. He had frankly admitted that more full instructions were desirable, and would be sent, but that the despatch enunciated any false principle of international law he entirely denied. What was the principle of international law on this subject? He apprehended that the governing principle of international law applicable to such cases as this was that the territory of a neutral was inviolate—a neutral had the right to possess its territory entirely free from all hostile operations, direct or indirect, and, if it pleased, from the presence of either belligerent. A neutral had a right to keep them off, *procul este profani*. Her Majesty had not gone that length; but she had strictly prohibited armed vessels bringing their prizes within her ports. [Hear.] The hypothesis was this—a prize was brought in in violation of her orders and of her neutrality; and he said if a prize was brought in in defiance of the Queen's orders the captain was guilty at once of a violation of international law and of the Queen's neutrality. Under these circumstances it was for the Queen to determine in what manner she should think fit to vindicate her neutrality; and if she chose to vindicate her neutrality by detaining the prize, in order that the claimant might have the opportunity which the United States consul desired of instituting proceedings, or to make any other inquiry he thought fit in the case, she had a right to do so, and the captain of the offending vessel, being the wrong-doer, had no *locus standi* to object to the vindication by the Queen of that neutrality he had violated. That was the principle of international law applicable to this case. The Queen had a perfect right to restore the vessel to her original owner. There was abundant authority for that doctrine. He repeated it: The principle was that neutrality

had been violated, and it was for the neutral whose neutrality was violated to determine the manner in which that neutrality should be vindicated. Suppose a vessel captured within neutral waters, in our waters, and had been subsequently brought back as a prize, had the Queen, ay or no, the power of restoring it to her original owner? The right honorable gentleman who was about to follow him must deal with that question. All authority was in favor of the right. Wheaton, which had been so much referred to, had this passage:

"Where the capture of enemy's property is made within neutral territory, or by armaments unlawfully fitted out within the same, it is the right as well as the duty of the neutral state, when the property thus taken comes into its possession, to restore it to the original owners."

What was the principle on which a vessel taken in neutral waters was restored? The principle was that their neutrality had been violated. The United States had acted on that principle for upwards of seventy years. The same principle applied to cases of the restoration of prizes made by armaments unlawfully fitted out within the territories of neutrals. That had been done again and again. Why? Because their neutrality had been violated. It was true that there had been no case decided in the United States in precisely the same circumstances; and why? Because the circumstances had never existed. The United States had not issued, like her Majesty, orders prohibiting prizes coming in, and therefore a breach of that species of neutrality had not occurred; but there could be no doubt, if it had occurred, the United States would have acted accordingly. This principle and practice were entirely applicable to this case, which was, no doubt, novel in its circumstances; the principle, however, was identical. He therefore called on the house most emphatically not to approve the resolution of the honorable gentleman, which went the full length of declaring that Wheaton was wrong, and the whole course of the United States for seventy years, of which we had enjoyed the benefit, had also been wrong. If these authorities were to be upset, it should be not by one night's discussion in that house, but by the judicial decision of a competent court of law. [Hear, hear.] He ventured to point out to the house the great danger of adopting such a resolution as that of the honorable gentleman. Such a course might be very inconvenient to this country, as he would show. We believed that our maritime strength was such that with whatever power we might happen to be at war we should always be able to blockade his ports to prevent the issue of vessels-of-war and the entrance of prizes taken from us. But suppose that the enemy resorted to American ports, and fitted out Alabamas from them, and took their prizes into the American ports? What should we do? We should claim that those prizes be restored to us. But how could we do that if this resolution were passed? [Hear.] We should be met with the reply, "You have passed a resolution which, in fact, avers that, however much and in whatever manner the neutrality of a state has been violated, the state has no jurisdiction to restore prizes." In that way we might find this resolution very inconvenient to ourselves. [Hear, hear.] Upon those grounds, and thanking the house for the patience with which they had listened to him upon what was chiefly a technical subject, [hear, hear.] he trusted that the house would not affirm a resolution which was not necessary, which could not be useful, which could have no practical effect, and which might hereafter be attended with serious inconvenience to ourselves. [Hear.]

Mr. WHITESIDE. The honorable and learned gentleman said, at the outset of his able speech, that there was no question of policy involved in this discussion. I beg leave to deny that proposition. There is the policy which led to instructions so legal and so perfect that we are told they are about to be immediately modified or repealed. I say there are questions of policy and of law. I agree with the honorable and learned gentleman that these questions should be discussed in a manner commensurate with their importance. When I first read

these papers I asked myself how it happened that such extraordinary despatches should have emanated from any department of the government. I answered myself by saying, "The authorities ruling at the Foreign Office at that moment thought the war was going against the south, [*Oh!* and *Hear!*], and that it was extremely likely the north would be successful." I called to mind the speech at Blairgowrie; and, although I remembered the more statesmanlike speech of the chancellor of the exchequer at Newcastle, yet I saw that one was later in date than the other. [*Hear, hear.*] I accept the declaration of the solicitor general that we ought to have strict neutrality. But we complain that the law of neutrality has been shamefully violated in this matter, [*hear, hear,*] that the transaction is indefensible, and I am satisfied that the honorable and learned gentleman, together with his able colleague the attorney general, has advised the crown that it is indefensible, and they have corrected the very instructions which the solicitor general employed a good portion of his speech to prove were so perfect as not to need correction. The facts of the case are very simple, but I heard with surprise the honorable and learned gentleman talk of "shams" as well as realities. There are no "shams" in the case of the *Tuscaloosa*. That vessel was originally called the *Conrad*, under which name she had been a merchant vessel. It is important to bear in mind the real facts when we find able lawyers raising questions which do not arise—supposing facts which do not exist, [*hear, and laughter,*] upon which they construct a visionary argument and call upon the house to decide, not upon the facts before us, but upon some matters imagined by the learned gentleman who addresses us. [*Hear, hear.*] It seems to me that now it is the admirals who decide the law and the lawyers who decide upon naval tactics; [*laughter;*] because, as the case stands, Admiral Walker has overruled the attorney general, and I understand the law officers at home have sent out instructions to the naval captains telling them how they are to behave. [*Hear.*] I will not say anything about the Duke of Newcastle in relation to this despatch, because I agree with my honorable friend that there are traces of another hand being engaged upon it—a hand with which we are painfully well acquainted.

Now, it is agreed that the *Tuscaloosa* formerly belonged to the federal States. Well, we are agreed upon that; and why, then, should there be any inquiry needed? [*Hear, hear.*] The vessel was captured off the coast of Brazil on the 21st of June, with a cargo of wool on board. I ask my honorable and learned friend and the house what was on that day the law arising out of those facts. When the ship of one belligerent strikes its flag to a ship of the other belligerent does not the ship which yields belong to the captor; or can it by any ingenious argument be made to belong to somebody else? The captor may burn or destroy the vessel, or not, according as the interests of his country might suggest. That has been done, and Lord Stowell says the captor has a right to do so when he is so instructed. It is really ridiculous to argue, then, as though there were any nation which had more frequently asserted that right than ourselves. [*Hear, hear.*] Surely you are not going to apply a different law to the Confederate States from what our own admirals act upon, and then plume yourselves upon your strict neutrality and your strong sense of justice! [*Hear, hear.*] I say that the ownership of the property was changed by the fact of the capture. I deny that any judgment or adjudication was necessary. If a man on board a captured ship disputes the right of the captor, his answer would be, "Do not make a noise, or I will shoot you." The object, the horrible object of war is to cripple the commerce and to damage the power of the country with which you are at war, and not to indulge in the interchange of polite compliments. [*A laugh.*] No one can doubt that a nation which is now commencing her fourth campaign for the vindication of her independence is entitled to all the rights of a belligerent, and having by the exercise of such rights captured the *Conrad* on the 21st of June the property in that vessel passed at once to Cap-

tain Semmes without any necessity for adjudication or condemnation. The captain of the *Alabama* then put on board two guns and ten men, under a lieutenant, and changed her name. The next question is whether the officer in command of the *Alabama* was lawfully commissioned by the Confederate States. That has been clearly admitted by the Duke of Newcastle, who says that his authority as commander of a vessel belonging to a belligerent power was not open to dispute. The next question is, had Captain Semmes power to grant a commission to the person he placed in command of the *Tuscaloosa*? Is that denied by the law officers of the crown? The words of Lord Stowell in a similar case were that it was only necessary to see that the officer put in command had even the semblance of authority, and we ought not to inquire at length into the nature of the commission. [Hear, hear.] We will see how that matter stands when we come to the statement of Sir B. Walker, as we find that all he says is to be adopted, and everything said by everybody else at the Cape is to be rejected. Our practice is that a commission granted by the admiral or captain abroad is subject to the approval of the admiralty at home; but Lord Stowell decided that the commander of a single ship might grant a commission, and thus the commander of the *Alabama* would have full authority to do so. I say that you can't go behind the commission according to the decisions of our own courts, nor can you inquire whether the ship is something different from what she appears to be. [Hear, hear.] I say the effect of the commission in this case was to change the character of the captured ship and to make her a vessel of war, employed by a lawfully appointed commander in the confederate navy. We find that the *Alabama* and the *Tuscaloosa* remained some time in company. The talk about the wool is a mere device of no value [hear, hear]—of no more value than it would have been if the whaler captured by the Americans during the last war had had a cargo of whales on board. [Laughter.] It was decided by Sir W. Scott that the fact of the American officer having put some guns on board the whaler had changed it into a ship-of-war, and it became the prize of the officer who took it. The *Alabama* and the *Tuscaloosa* continued in company until the 7th of August; and it is, as the solicitor general said, quite true that the Cape of Good Hope is a neutral port; but, then, this vessel must be regarded either as a prize or as a ship-of-war; and if it was a prize the conduct of the framers of these instructions is indefensible, while if it was a ship the course which they took is quite inexcusable. [Hear, hear, and a laugh.] Now, I admit that there was a proclamation of the Queen that forbids the captor to bring a prize into the Cape, but there remains the question, what was to be done in the present instance? The course which was taken, notwithstanding what has fallen from the solicitor general, will, I would venture to say, never again be repeated. [Hear.] Be that, however, as it may, the proclamation was very important. It was perfectly well known to the commander of the *Alabama*, who is described by Sir B. Walker—who vanished at a particular crisis from this country to appear in a superior position at the Cape—as a gracious and gentlemanly person. This officer, it seems, applied for leave to procure some fresh water and provisions, and announced that he had outside what he called his tender—the *Tuscaloosa*. Now, that was, in my opinion, a very proper thing to do; and here I may observe that it is somewhat remarkable that if an official or a clerk at a distant station acts illegally, rashly, or unscrupulously, he is sure to be defended by the noble viscount at the head of the government, while if he acts with ability and discretion he is certain to be thrown overboard. [Hear, hear, and a laugh.] We all remember the declaration of the present lord chancellor about the judgment and discretion displayed in the well-known case of the *Lorcha*, but, passing by that point, it would seem that Admiral Walker undertook to decide the law in this matter, and, although I have the greatest respect for seafaring men, yet I deny that their authority is in such cases so satisfactory as that of the attorney general. Now, there is an attorney general at the

Cape—Mr. Porter—than whom, if he be the man I knew in former times, you could have no better educated person. [An honorable member.—“Mr. Stevenson is the acting attorney general.”] Well, that did not matter; the attorney general gave his opinion, but the government set it aside. The captain of the Alabama, I may add, said he knew well the neutrality prescribed by the proclamation of the Queen, and during the whole time that he remained at the Cape there was not a particle of evidence to show that he sought to sell the Tuscaloosa or the wool. [Hear, hear.] He remained there in accordance with the law of neutrality; he got his provisions. Admiral Walker was overruled and the vessel left in about seven days. I beg now to call the attention of the house to what was said by another able lawyer, the consul of the United States. He applied to the governor to seize the vessel. “I cannot,” said the governor. “I tell you what we will do,” answered the consul; “the moment we take the Alabama we will do everything this captain has done with the Tuscaloosa; we will turn it into a ship to be used against the confederates.” “Quite fair,” added the governor, “I cannot prevent you from doing so any more than I can prevent this gentleman from turning this into a tender to the Alabama, and putting a lieutenant on board.” “But,” replied the consul, “if you do not see the vessel, you ought at once to order her to depart from this port.” Now, the consul suggested the right course to adopt if there had been a violation of the law and the proclamation of neutrality, and I do not at all complain of Sir B. Walker for having laid his doubts before the governor; and it will, I think, be time enough for the solicitor general when every ship taken is converted into a tender to lay down the law with as much solemnity as he has done to-night. No candid man can, in my opinion, underrate the fact that the lieutenant on board the ship had a legal commission at the outset; and what happened next? The proceedings at the Cape were, as far as I can see, creditable to the officials there, and an account of the transaction, together with the opinion of Sir B. Walker, is sent to the government in this country; and here I may observe, that we had in the North American correspondence a despatch which gives us a key to the course pursued by Earl Russell. Mr. Adams, having had the case laid before him by the American consul, pressed the noble earl to do something in reference to this ship. The despatch of the 29th of October shows pretty clearly what led to the issuing of the instructions of the 4th of November. On the 17th of September there is a despatch from Sir B. Walker, who had misgivings about the ship. This document was in your possession early in October, and it proves that the commander had made explanations to the gallant admiral in reference to what had been done. On the 17th of September Sir Baldwin Walker writes:

“Captain Semmes frankly explained that the prize Sea Bride, in the first place, had put into Saldanha bay through stress of weather, and on being joined there by the Tuscaloosa, both vessels proceeded to Angra Pequena, on the west coast of Africa, where he subsequently joined them in the Alabama, and there sold the Sea Bride and her cargo to an English subject who resides at Cape Town. The Tuscaloosa had landed some wool at Angra Pequena and received ballast, but, he states, is still in commission as a tender. I have no reason to doubt Captain Semmes's explanation; he seems to be fully alive to the instructions of her Majesty's government, and appears to be most anxious not to commit any breach of neutrality.”

[Hear, hear.] Thus the matter stands; the goods were not sold at the Cape, but were disposed of long afterwards in Africa; Captain Semmes returned to the Cape in September, and gave an explanation of everything connected with the Tuscaloosa to Sir Baldwin Walker, who wrote home that he was entirely satisfied with that explanation, part of which was that the Tuscaloosa was still in commission as a tender to a confederate ship-of-war. [Hear, hear.] It was with these facts before him, and advised by the consummate lawyers whom I

see opposite, or rather, I suspect, not advised by them, that somebody at home sat down and contrived the despatch to which I must now call attention. The solicitor general asks what complaints we have to make. I complain of almost everything in it, whether as matter of fact or of law. [A laugh.] After Sir Baldwin Walker had written home, stating that he was satisfied with the explanation of Captain Semmes respecting the Tuscaloosa, the following despatch was sent out from Downing street:

"With regard to the vessel called the Tuscaloosa, I am advised that this vessel did not lose the character of a prize captured by the Alabama, merely because she was, at the time of her being brought within British waters, armed with two small rifled guns, in charge of an officer and manned with a crew of ten men from the Alabama, and used as a tender to that vessel under the authority of Captain Semmes."

Let me here remark that the question whether she was or was not that thing had been investigated at the Cape. The despatch of the governor is explicit on the matter; the decision of the law officers is clear; the opinion of Sir Baldwin Walker is conclusive; yet with all those things before him the colonial secretary disputes a fact that had been inquired into in the only place where it could be investigated. [Hear, hear.] He then proceeds to lay down this most extraordinary doctrine:

"Whether, in the case of a vessel duly commissioned as a ship-of-war, after being made prize by a belligerent government, without being first brought *in fra prasidia* or condemned by a court of prize, the character of a prize, within the meaning of her Majesty's orders, would or would not be merged in that of a national ship-of-war, I am not called upon to explain."

Not called upon to explain? The colonial office might as well be shut up at once. [A laugh.] It was its business to explain. The distracted governor at the Cape says, "Tell me what to do." "No," replies the colonial secretary, "I scorn to enlighten you; I will leave you in your difficulties, but, at the same time, I will reverse your decision;" and the ground alleged is that most exquisite one by the solicitor general, "We don't believe any such case will occur again." [A laugh.] They never wish to hear the name of the Tuscaloosa again, and while they invent a doctrine theoretically it is not to be put in force practically. Surely, says the solicitor general, the Duke of Newcastle could not suppose that the Tuscaloosa would return. Alas for the duke, she did come back, for at the end of five months the same ship upon which an inquiry had been held, and the explanation respecting which given by Captain Semmes had been considered satisfactory, sailed one fine morning into the Cape. "Oh!" cried Sir Baldwin Walker, "here she is again. Don't breathe a word to the attorney general, but seize the ship." [A laugh.] The governor says there is no ground for seizing her; she has no wool on board. "We are to seize her," replies Sir Baldwin Walker, "in accordance with the general principles of international law, which don't apply to the case; we are to suppose she was in neutral waters when she was not so; we are to suppose she had English property on board when she had no English property on board; we are to suppose she was recaptured when she was not recaptured; we are to suppose everything we can't suppose, and, after exhausting our imaginations by inventing impossible cases, we are to obey the duke." [Cheers and laughter.] During her absence the Tuscaloosa had been cruising in the service of a belligerent power, under the confederate flag, with a commission from a lawfully constituted officer, and she was seized because five months before she had wool on board, which she did not sell. [Hear, hear.] "It is not possible," cried her astonished commander, "that you have seized my ship. Why have you done so?" They were very delicate about giving him the information he sought for, but eventually they told him they had been directed to act as they had done against their own judgments, and I must do our authorities at the Cape

the justice to say that it was impossible to understand their instructions. [A laugh.] The officer in command of the Tuscaloosa, when his vessel was seized, sat down and wrote words which, I think, no Englishman can read without a blush. I felt ashamed when I read them. He says:

"In August last the Tuscaloosa arrived in Simon's bay. She was not only recognized in the character which she lawfully claimed and still claims to be, viz: a commissioned ship-of-war belonging to a belligerent power, but was allowed to remain in the harbor for the period of seven days, taking in supplies and effecting repairs with the full knowledge and sanction of the authorities. No intimation was given that she was regarded merely in the light of an ordinary prize, or that she was considered to be violating the laws of neutrality. Nor, when she notoriously left for a cruise on active service, was any intimation whatever conveyed that on her return to the port of a friendly power, where she had been received as a man-of-war, she would be regarded as a prize, as a violator of the Queen's proclamation of neutrality, and consequently liable to seizure. Misled by the conduct of her Majesty's government, I returned to Simon's bay on the 26th instant, in very urgent want of repairs and supplies; to my surprise I find the Tuscaloosa is now no longer considered as a man-of-war, and she has by your orders, as I learn, been seized for the purpose of being handed over to the person who claims her on behalf of her late owners. The character of the vessel, viz: that of a lawful commissioned man-of-war of the Confederate States of America, has not been altered since her first arrival in Simon's bay, and she, having been once fully recognized by the British authorities in command in this colony, and no notice or warning of change of opinion or of friendly feeling having been communicated by public notification or otherwise, I was entitled to expect to be again permitted to enter Simon's bay without molestation. In perfect good faith I returned to Simon's bay for mere necessities, and in all honor and good faith in return I should, on change of opinion or of policy on the part of the British authorities, have been desired to leave the port again. But by the course of proceedings taken I have been (supposing the view now taken by your excellency's government to be correct) first misled and next entrapped."

[Cheers.] That is the statement of Lieutenant Low. Is it not strictly true? [Cheers.] Was he not first misled and then entrapped? [Renewed cheering.] All the answer the governor at the Cape could make was, that he could not help it. I have referred to the despatch of the 4th November from Downing street, and to the ingenious argument which the solicitor general founded upon it. He asks what would be the case of a vessel taken in neutral waters. Why, the law applicable to a clear violation of neutrality would be enforced; but the present case is one wholly different. The Tuscaloosa could not lawfully be seized either as a ship-of-war or as a prize. It is admitted on all sides that, if a ship-of-war, she could not be touched, while, if a prize, she could be sent away for violating the royal proclamation. Our authorities could have warned her off, but they had no authority to pursue any other course, and all the ingenuity of the solicitor general has been employed simply to conjure up some fanciful case, which has nothing to do with the subject of our present discussion. [Hear.] How were they to find the owner, and how was a question of the kind to be properly investigated? The invariable course adopted was, therefore, to warn such a vessel not to enter a port, or, if it had already entered, to order it to quit. The latter part of the despatch of the 4th of November, which his honorable and learned friend had read in a gentle tone, and had said required amplifying and explaining—which was perfectly true—[a laugh,] and adding to—which was not only correct, but would be done—said, "You are to keep the Tuscaloosa, if she comes in again, until properly reclaimed by her owners." Such an instruction was indefensible, and the plea that it applied only to a particular ship and to a particular harbor could not possibly

be upheld in fair argument. To make the thing more completely ridiculous, the advice of the law officers of the crown was taken, and another despatch was written, instructing the governor to give back the vessel, which, according to the opinion of the solicitor general, had been rightly seized. Whether they admitted his honorable and learned friend's argument or not, they could not but confess that the conduct pursued was highly inconsistent. The whole thing proved that the course adopted was a wrong one, and that the statement of the captain, when he said he had been deceived and entrapped, was perfectly correct. The case was not at all improved from the manner in which this restoration was effected. It was not pretended that the restoration was made because any unwise or unsound principle had been laid down, but simply because of certain facts which had occurred in connexion with this particular vessel. He denied that the ship could be termed a prize under any circumstances, acting as she had done, in the belief of Sir Baldwin Walker and every one at the Cape, for six or seven months as a tender to a man-of-war under a lawful commission. The house ought to take care that for the future the principles of international law should not be violated, and that neutrality should be exercised to all nations impartially, consistently, and justly. The right honorable gentleman was loudly cheered on resuming his seat.

Mr. J. POWELL was of opinion that the right honorable gentleman who had just sat down had supplied by the exuberant fallacy of his arguments the barrenness of his answer [hear, hear] to the facts and solid arguments brought forward by his honorable and learned friend the solicitor general. He presumed that those who had listened attentively to the speech of the right honorable gentleman would regard as the most powerful that portion which exposed what the government had acknowledged to be a mistake, namely, the seizure of the *Tuscaloosa* on her return. He would ask the right honorable gentleman what authority there was beyond his own statement for the assertion that the *Tuscaloosa*, when she first entered Simon's bay, had on board any commission whatever? Captain Semmes, who must have known whether such was the case, had not said a single word about it. As far as the facts were known to the house and to the country they all went to show that she was only colorably a tender, and that she was acting without any commission. When she came into Simon's bay she had her cargo on board, only two small swivel guns and ten men. He did not profess to know much about naval matters, but he believed that there were few vessels which now traversed the ocean without having a few such arms on board. [Hear, hear.] Every fact, therefore, which had come to their knowledge proved that the *Tuscaloosa* was what she originally had been, a merchantman and a prize. [Hear, hear.] He ventured to think that if any mistake had been made in the first instance, it was to be attributed to the attorney general, and not to the governor, or any one else. Sir Baldwin Walker said:

"On the 8th of August, the tender *Tuscaloosa*, a sailing bark, arrived in Simon's bay, and the boarding officer having reported to me that her original cargo of wool was still on board, I felt that there were grounds for doubting her real character, and again called the governor's attention to this circumstance. My letter and his reply are annexed. And I would here beg to submit to their lordships' notice that this power of a captain of a ship-of-war to constitute every prize he may take a 'tender,' appears to me to be likely to lead to abuse and evasion of the laws of strict neutrality, by being used as a means for bringing prizes into neutral ports for disposal of their cargoes, and secret arrangements—which arrangements, it must be seen, could afterwards be easily carried out at isolated places."

He maintained that the view taken by Sir Baldwin Walker was a very sensible one. The attorney general, however, naturally enough, had recourse to Wheaton, and interpreted his rules according to the letter instead of the spirit.

Having received his decision, Sir Baldwin Walker and the governor of course had no other course left them but to seize the vessel. The right honorable gentleman opposite had challenged both the facts and the law in the Duke of Newcastle's despatch, but he maintained that the facts were correct and the law sound. [Hear, hear.] This was a case, it should be remembered, where, if there was no authority for the law laid down, it was equally impossible to cite any authority against it; and, in his opinion, it would be better for the house, instead of attempting to decide a question with which it was really incompetent to grapple, to wait until it had been disposed of by a proper tribunal. He begged the house to observe that the despatch did not assert any general principles of law, but was limited to the specific case under consideration.

"With regard," wrote the duke, "to the Tuscaloosa, I am advised that this vessel did not lose the character of a prize captured by the Alabama merely because she was, at the time of her being brought within British waters, armed with two small rifled guns, in charge of an officer, and manned with a crew of ten men from the Alabama, and used as a tender to that vessel under the authority of Captain Semmes."

The Duke of Newcastle assumed the facts to be as he stated them, and was justified in doing so from the information he had received. No one could doubt for a moment that if the vessel was armed, not *bona fide*, but merely for the purpose of evasion, she did not thereby lose the character of a prize. Then the Duke of Newcastle went on to say:

"I think that the allegations of the United States consul ought to have been brought to the knowledge of Captain Semmes while the Tuscaloosa was still within British waters, and that he should have been requested to state whether he did or did not admit the facts to be as alleged. He should also have been called upon (unless the facts were admitted) to produce the Tuscaloosa's papers. If the result of these inquiries had been to prove that the vessel was really an uncondemned prize, brought into British waters in violation of her Majesty's orders made for the purpose of maintaining her neutrality, I consider that the mode of proceeding in such circumstances most consistent with her Majesty's dignity, and most proper for the vindication of her territorial rights, would have been to prohibit the exercise of any further control over the Tuscaloosa by the captors, and to retain that vessel under her Majesty's control and jurisdiction, until properly reclaimed by her original owners."

He would not enter into the very nice question as to whether a correct interpretation of international law was given in the concluding portion of the despatch, which said that the vessel ought to be retained until properly reclaimed by her original owners. That was a point quite beside the main and substantial question at issue, which was, not what was to be done with the vessel after she had been detained and forfeited, but whether the authorities at the Cape had a right to detain and forfeit her at all. [Hear, hear.] He would not say that a vessel under such circumstances ought not to be given up to her original owner; but he was rather disposed to think that the forfeiture would inure to the benefit of the crown, and that the original owner would have very little right to reclaim the ship. Putting that question, however, aside as immaterial to the main issue, he submitted that all the principles of law were in favor of the assertion that, under such circumstances, the crown had a right to detain the vessel.

At the commencement of the war, her Majesty had issued a proclamation, forbidding both belligerents alike to bring prizes into our ports. Captain Semmes was acquainted with that proclamation, and that was proved by some of the facts in this very case. It was significant that Captain Semmes did not bring in the tender with him in the first instance. [Hear, hear.] He left her outside, but mentioned in port where she was. Thus he ascertained whether there would be any objection to the tender being brought in. The authorities at the

Cape naturally assumed that Captain Semmes was speaking the truth, and that the tender to which he referred really was a vessel answering to that description, and not a sham, fitted up for purposes of evasion. Consequently, they offered no opposition to her coming in. As soon, however, as they discovered the truth of the matter, that the Tuscaloosa was not properly a tender, but was only disguised as one, they ought to have done as the Duke of Newcastle pointed out—prohibited the exercise of any further control over her by the captors, and retained her under her Majesty's jurisdiction. All vessels entered foreign ports only by the courtesy and permission of the sovereign of the country, who had an undoubted right, especially in time of war, to prescribe the conditions under which ships should be admitted. Any vessel which disregarded or violated the limitations thus imposed offered an insult to the sovereign, and rendered herself liable to punishment accordingly. Could any one doubt that if Captain Semmes had brought in the Tuscaloosa as a prize, and had persisted in entering after having been warned to desist, Admiral Sir Baldwin Walker would have opened fire, and perhaps sunk both the Alabama and the Tuscaloosa? Well, then, if he would have been entitled to sink her when force was used, surely he had a right to seize and detain her when fraud, the substitute for force, was resorted to. [Hear.] The right honorable gentleman had blended together two things which were totally distinct—the arrival of the Tuscaloosa on the first and on the second occasion. "How inconsistent," it was said, "is the Duke of Newcastle! The first time the vessel comes in he says you ought to keep her; and when she returns again and is seized, he orders her to be let go directly." It must be remembered that in the interval between the two visits a great change had occurred in the circumstances of the case. The second time the vessel appeared, whether or not she had a formal commission from Captain Semmes or the confederate admiralty, she was a duly commissioned vessel within the case of the Ceylon, which had been cited. She had then got rid of her cargo; she had mounted several guns, instead of two; she was manned not by ten but by twenty men. In fact, she had become a vessel-of-war. [Hear.] Where a vessel had become beyond all question the property of the captor, the conduct of the captor might, nevertheless, be such as warranted the forfeiture of the vessel. As to this there was no doubt, and if you wanted an instance of misconduct which justified forfeiture, it was certainly supplied by the entrance of a belligerent vessel into a neutral port in defiance of the proclamation of the neutral government. [Hear, hear.] As to the discussion which had occupied the house, he should like to know what was the use of it? Of course, the house had a right to discuss abstract questions of law if they thought fit, but in doing so they were, in his opinion, travelling beyond their proper functions. Their decision was just as likely to be wrong as right; but, whatever it was, would the government venture to advise her Majesty upon the strength of it? Would the judges even take judicial notice of it? Certainly not. Instead of applying itself to its proper business, which was legislation, the regulation of finance, the amending of grievances, and the material and political welfare of the nation, this house became something like a discussion hall when it debated abstract questions of law, a decision upon which could answer no good purpose whatever. The house would do well to give no decision on this subject; but if it did decide, he hoped its decision would be based on those sound principles of international law which had been laid down by the solicitor general, and which he also had humbly attempted to enforce. [Cheers.]

Sir J. ELPHINSTONE repeated the facts connected with the arrival of the Tuscaloosa at the Cape, and, calling the attention of the house to the armament which was on board at her detention, asked how it was possible to argue that this ship was not a man-of-war. In point of fact, she was perfectly able to capture any more slightly armed merchantmen, and she was a man-of-war of the most dangerous character. Some stress was laid upon the fact that on the

first occasion when she entered Simon's bay she had a cargo on board, and could not, therefore, be regarded as a ship-of-war. But in 1813, the American Captain Porter, of the *Essex*, captured in the Pacific twelve British whale ships, of which he armed and manned two as cruisers, naming them the *Essex Junior* and the *Georgiana*. Both these vessels were recaptured by the English cruisers, the *Georgiana* having at the time a cargo of spermaceti oil on board. That was the case of an armed vessel loaded with property which had confessedly belonged to the former owners of the ship; but the prize court held that she was a national ship, and that being the prize of the captors the property found on board no longer belonged to the former owners. That case appeared to him to be precisely on all-fours with that under discussion. [Hear, hear.] Who could now estimate the damage that had been done to the confederates by the *Tuscaloosa* having been detained, and the objects of her crew having been frustrated by the detention? Would her Majesty's government satisfy the claims of the Confederate States in this case? It appeared to him that in the whole of the dealings of our government with the confederates we had been acting more in a spirit of hostility than in a spirit of neutrality. We had acknowledged them as belligerents, but we had not acknowledged that they had a government to direct their movements; and the consequence was, we had not been able to communicate with them on matters of international law. He thought that this case was deserving of the serious attention of the house. [Hear, hear.]

Mr. SHAW LEFEBVRE regarded this question as one of very great difficulty, and one better fitted, in a great many respects, for a court of law than for that house. At all events, it ought to be treated by honorable members in a spirit of neutrality. There were two branches of the subject: first, what course ought to have been adopted with the *Tuscaloosa* when she came into Simon's bay for the first time; secondly, what course ought to be adopted with regard to prizes generally when they came into our ports. Having read the various despatches, including that of Sir Baldwin Walker, he could come to no other conclusion than that when the *Tuscaloosa* first entered Simon's bay she ought to have been seized. The earliest case of the kind was that which occurred in America in the year 1794. In reference to that case, which was one of prizes taken by vessels unlawfully equipped in America, Washington was in a dilemma. Considerable doubt was entertained by his cabinet, and the question was referred to the judges. They refused to enter upon the question; and Washington was obliged to take the case in his own hands, and afterwards to introduce an act by which powers were given to the law courts to enter upon these questions. He had, however, in the mean time handed over the prizes to their original owners. There was a very important question in this case—one not raised by the government, or alluded to in the Duke of Newcastle's despatch—namely, that the *Tuscaloosa* was the prize of a vessel which had been unlawfully equipped in this country. [Hear.] It was also the case that the instructions given to officers in command of vessels-of-war or privateers laid down, that when they captured a vessel they should bring it into port for adjudication; and they had no instructions to warrant them in burning the vessel. It could not be considered a usage sanctioned by international law to burn and destroy private property on the sea; and consequently, in the consideration of this question, the Alabama's practice of constantly burning the ships she captured ought to be borne in mind. He was glad to observe that a great authority (the lord chancellor) had expressed the opinion that such a practice could not be deemed to be according to the usage of modern warfare.

[An honorable member moved that the house be counted. There were scarcely twenty members present at the time, but before the speaker completed the "count" the number was raised to considerably beyond the requisite forty by a rush of members from the lobbies and dining-room.]

Mr. SHAW LEFEVRE accordingly resumed his observations. It was hardly safe to say that all prizes which came into ports belonging to her Majesty should be handed over to their original owners, for ships with prizes intended to be submitted to the adjudication of a prize court might be obliged by stress of weather to enter those ports. In such cases the prizes should not be handed over to the owners, unless the vessels which captured them had been equipped in British ports, in violation of the Queen's proclamation of neutrality. [Hear, hear.] He sympathized very much with the gallantry of the confederates, but not with their cause, and he could not sympathize with the gallantry displayed by the Alabama, which seemed to have been built, not for fighting at sea, but for lighting up bonfires by burning private property. [Cries of "Divide!"]

Sir J. HAY thought that her Majesty's government did not deserve any great credit for their attempt to count out the house so soon after the discreditable manoeuvre of Friday last on the China question. [Hear, hear.] It certainly was a very convenient way of getting rid of a disagreeable question, when they found public opinion and the opinion of that house running strongly against them, to put up some member on their own side to desire the speaker to ascertain whether the requisite number of members were present. [Hear, hear.] Some quieter mode, however, of getting out of the discussion would have been more consonant with their dignity than this flagrant abuse of privilege. [Hear.] The honorable member for Reading had laid down some doctrines which, as a naval officer, he must pronounce altogether heretical. A privateer, he could assure the honorable gentlemen, was by no means the same as a tender. A tender carried with it all the virtues and powers of the ship to which she was commissioned. The character of the Tuscaloosa was not in any respect that of a privateer; she drew her powers entirely from the commission which was borne by the captain of the Alabama. The honorable gentleman, perhaps, might contend that the captain of the Alabama was not a captain of a man-of-war; but the government had some time ago, through their officers, acknowledged him for all purposes as captain of a man-of-war. The captain, therefore, of the tender acting under his orders had the same full powers to navigate the ocean as the captain of the Alabama possessed as captain in the confederate navy. [Hear, hear.] Consequently the honorable gentleman's argument fell entirely to the ground. It was a new doctrine to him that captains of belligerent ships-of-war were no longer empowered to sink, burn, and destroy the ships which it might be their duty to capture. It might not be politic or for their own advantage to do it, but if war was ever to be carried on to a successful issue no naval officer would consent to be bound to encumber himself with a number of prizes, thereby seriously diminishing the number of men which he might require for fighting his ship. It was the duty of every naval officer not to pay implicit respect to the feelings of those whom he captured, or to the advantages which would accrue to himself and his crew from carrying his prizes into port and having them condemned; but, on occasions when the public service demanded it, to sink, burn, and destroy all that fell into his hands. Speaking for Sir B. Walker and those officers on foreign stations who had been victims to the ambiguous despatches of the government, he hoped that for the future they would be more explicit in their instructions, and that they would not again attempt to shift the blame from themselves and throw it on their officers. [Hear.]

Mr. NEATE said that although the proposal to count out the house had proceeded from that side of the house, there was no reason to impute it to the government. [Hear, hear.] Of those who rushed in to make the house a large majority belonged to the government side, and all through there had been two members on the government side to one on the other. [Hear, hear.] He thought there would not be much difference of opinion that the Tuscaloosa ought to have been detained at the outset if the Duke of Newcastle's despatch had arrived earlier. When the Tuscaloosa was first brought into Simon's bay she

was brought in in fraudulent violation of our neutrality. [Hear.] She was a ship of five hundred tons, and she was brought into the bay commissioned as a vessel-of-war, with ten men on board. He would ask the honorable and gallant gentleman, (Sir J. Hay,) if he had the honor and responsibility of commanding her Majesty's fleet, whether he would send such a ship to sea with less than one hundred men? [Hear.] But it had been said that upon her return she was, to all intents and purposes, a vessel-of-war. But what was her state then? Why, she had twenty men and three guns on board, one hundred cartridges, and twelve revolver pistols. [A laugh.] Sir B. Walker said he had learnt since the departure of the Alabama and her so-called tender that overtures were made to some parties in Cape Town to purchase the Tuscaloosa's cargo of wool. Would the honorable and gallant gentleman opposite think a transaction of that kind the business of a vessel-of-war? [Hear, hear.] He was not entirely satisfied with the vague and general language at the end of the Duke of Newcastle's despatch. It would have been desirable that there should have been a little more precision. But they had been told that that defect had been remedied, and therefore he submitted that no injustice had been done.

Mr. M. SMITH said he agreed with his honorable friend the solicitor general, that in dealing with a question of this kind the house should approach it in a judicial spirit. He also agreed with him that there was some inconvenience in the House of Commons taking up questions of international law, but it had been the practice both of that and the other house of Parliament to express an opinion upon such questions. When the solicitor general expressed a hope that the votes of honorable members would be given that evening without any party spirit, he entirely sympathized with him, but he ventured to say that in that case his honorable and learned friend himself must vote in favor of the resolution. [Hear, hear.] His honorable and gallant friend made a most gallant defence of the instructions sent out, probably by his own advice, to the colony. He (Mr. M. Smith) was quite willing to admit the difficulty, which none but a lawyer knew, in which the law officers of the crown would feel themselves placed in such a case. They would have to apply principles not to be found in the ordinary current of authorities, but in books of international jurisprudence which required some research. But when he was asked to express an opinion upon the despatch of the Duke of Newcastle, and when his honorable and learned friend in such bold and defiant language laid it down that nothing in that despatch could be said to be wrong in point of law, in that case a duty was cast on honorable members to state what opinion they had formed on the subject. [Hear, hear.] There were three questions involved, in all of which he held that the government had gone wrong. The first was whether the Tuscaloosa, when she came into Simon's bay, was to be treated as a prize, or as a ship-of-war commissioned by confederate authority. The government had decided that she was to be treated as a prize. The second question was whether, supposing she were a prize, the admiral on the station was entitled to detain her for the purpose of having her handed over to the original owners. The home government had thought that she should have been kept until claimed by the original owners. The third question was whether, when the Tuscaloosa came in the second time and was seized, and when the home government felt it necessary that she should be restored to those from whom they had taken her, they acted rightly or not. He held that even in this last case the government had not the courage and right feeling to order her to be restored upon the proper grounds, but they put the restoration upon the narrow, mistaken ground that because she had been once in the bay, and had been allowed to sail, she ought to be restored. [Hear, hear.] The two former were mistakes in point of law; the latter was a mistake in point of policy, and was the most serious of all, because the government were responsible for it. [Hear, hear.] With reference to the first question, whether the Tuscaloosa ought to be treated as a prize or a ship-of-war, he agreed

with his honorable and learned friend to a certain extent that that was a question of fact, and that to some extent the *bona fides* might have been inquired into. It was clear if a ship were brought in without any of the insignia of a vessel-of-war, those who had to exercise the Queen's authority might take it upon themselves to say, "This is in clear contravention of the Queen's proclamation—it is a mere deception intended to be practiced upon us." The colonial authorities appeared to have formed a correct opinion both on the facts and the law. The question was whether she was a ship-of-war or her tender, and, as such, entitled to the privileges of a ship-of-war; or whether she went in to deliver her cargo and make a profit to the captors. Leaving party spirit on one side, he thought that the Tuscaloosa had been made a *bona fide* tender to the Alabama, and, therefore, was as much a ship-of-war as the Alabama herself. One great test of a ship-of-war was, had she a commission? The Duke of Newcastle, in his despatch, omitted altogether the circumstance that she had been commissioned by the Alabama. This fact was known to Sir B. Walker, however, for he wrote to the governor on the 7th of August to say:

"Captain Forsyth has informed me that the Alabama has a tender outside captured by Captain Semmes on the coast of America, and commissioned by one of the Alabama's lieutenants." [Hear, hear.]

From beginning to end the fallacy that ran through the correspondence was that because the Tuscaloosa was not condemned as a prize she was not to be treated as a ship-of-war. [Hear.] The solicitor general was not justified in saying that it was a sham to take her in as a tender. On what ground did the American consul desire that she should be detained? On the 10th of August he wrote:

"An armed vessel, named the Tuscaloosa, claiming to act under the authority of the so-called Confederate States, entered Simon's bay on Saturday, the 8th instant. That vessel was formerly owned by citizens of the United States, and while engaged in lawful commerce was captured as a prize by the Alabama. She was subsequently fitted out with arms by the Alabama to prey upon the commerce of the United States, and now, without having been condemned as a prize by any admiralty court of any recognized government, she is permitted to enter a neutral port, in violation of the Queen's proclamation, with her original cargo on board. Against this proceeding I hereby most emphatically protest, and I claim that the vessel ought to be given up to her lawful owners."

What stronger evidence could there be that she was a vessel-of-war than this statement of the American consul? [Hear.] No doubt, as between belligerents, property was not changed by the capture for certain purposes, but, as regarded belligerents themselves, the capture was complete, and the sole dominion over the prize was gone. The case of the Georgina, decided by Lord Stowell, was almost exactly similar to that of the Tuscaloosa, and both the American and English lawyers bowed to the authority of that learned judge. Lord Stowell said:

"It has been usual for the court to look, in the first place, for the commission of war, because where that is found nothing more is wanted."

In answer to the argument that this was the case of commissions from an officer of a single ship, Lord Stowell said:

"Take it to be as stated, that it is the act of an officer commanding one ship only, the distinction does not appear to me to be very material. When it has been held that the commander of two or three ships may sufficiently 'set forth to war,' it is not going much further to say that the commander of a single ship may possess the same authority."

He had not heard it asserted that the commission given to the Tuscaloosa was not a real commission, nor was it disputed that the captain was competent to give such a commission. What was the remedy? It was not to treat her as a prize, but to regard her as a ship-of-war, and to deal with the Confederate

States as if she were a ship-of-war. [Hear, hear.] The government of this country had given to the Confederate States belligerent rights. There could be no degrees in belligerent rights, for once given to a state they were possessed by it fully and entirely. [Hear, hear.] The opinion of Sir P. Wodehouse was entitled to more respect than it had received from the law officers. No doubt the governor had acted on the opinion of his attorney general, and his law officer had been right in his view of the law. [Hear, hear.] The solicitor general had taken higher ground, and assumed an air of dignity to which he was not entitled when he said, with great condescension, that the law officers at home did not throw any blame on the law officers of the colony. [Hear, hear, and a laugh.] The fact was that the law officers of the colony had been right throughout, and that the despatch of the Duke of Newcastle was wrong throughout. [Hear, hear.] His learned friend, being determined to support the despatch throughout, would not admit that it contained anything wrong, but simply that it was not sufficiently explicit; a convenient mode of getting rid of the effect of a despatch which was wrong in point of law. So explicit was it, however, that the governor was obliged to act upon it, contrary to his own opinion, [hear, hear,] and the admiral felt the instructions to be so explicit that he turned out the crew of the Tuscaloosa and replaced them with sailors from his own vessel. [Hear, hear.] His honorable and learned friend held this to be right in point of international law, but it was certainly novel, and fraught, too, with the gravest consequences; because if governors were to act on this interpretation of international law we were in danger of war every hour of our lives. [Hear, hear.] His honorable and learned friend adverted to what had occurred in another place. In the debate so referred to, a noble lord high in office, and particularly interested in this transaction observed that the despatch written by the Duke of Newcastle went beyond what the law officers said, and that the law officers entertained serious doubts——

THE ATTORNEY GENERAL. Lord Russell stated that the law officers said it was matter for serious consideration.

MR. M. SMITH. Yes; but according to the solicitor general everything now was perfectly right. He wished to know at what time the law officers thought it matter for serious consideration, and how they had satisfied themselves that it was perfectly right. [Hear, hear.] Surrounded as they were by eminent politicians, he could not help thinking that the law of his honorable and learned friend was somewhat warped by the politics and exigencies of the moment. Away from their present associations, it was impossible to have two better opinions; but, unconsciously to themselves, no doubt, their views had been warped by the company which they kept. [Hear, and laughter.] His honorable and learned friend had referred to instances in which a neutral power was entitled to seize a ship in the hands of a belligerent when brought into its own ports; but in the authorities from which those instances were drawn, including the excellent treatise of the Queen's advocate on "international law," he must have seen that they were all exceptions, founded on the fact that the original capture was bad in law. There was no authority justifying the neutral power in manning the prize from one of its own ships-of-war, [hear,] and had the confederates been a strong power, no doubt they would have resented that proceeding as an act of war. If the same step had been taken with a nation able to enforce its own views on international usage, he believed the "serious doubts" of the law officers would still have remained. What was such an act, in effect, but making the Queen a recaptor for the federal government? [Hear, hear.] In explanation of the instructions sent out to the Cape, altering the decision of the colonial authorities, both as to the law and the facts, and giving explicit and arbitrary instructions for the future, his honorable and learned friend urged that it was not then foreseen that the Tuscaloosa would return. If not, then these instruc-

tions were a mere waste of harmless powder. But the Tuscaloosa did come again, and was seized. His honorable and learned friend could not have been as confident then as he was now, because no one could read the despatches without seeing that the government were in a great fright and endeavored to recall what they had done. The colonial authorities were told to restore the ship, and when they inquired the grounds for so doing were supplied with very scanty information. The vessel was let go because it was not expedient to keep her. But she was detained for her original owner; how, then, could the government let her go without his consent? It would have been more generous to the colonial authorities to have said that they were right, and therefore the ship must be released; and it would have been more gracious to the Confederate States if her liberation had been accompanied by some expression of regret for what had occurred. He admitted that there were difficulties in maintaining a strict and impartial neutrality; but the house and the country had a right to expect that neutrality, more especially as between a weak country and a strong one, should, if rigid, be at the same time impartial. [Hear.]

Mr. DENMAN said that if the discussion of questions of this sort in that house was attended with inconveniences, still greater were those which would arise from coming to rash votes upon questions of great international importance. [Hear, hear.] He hoped that in the present instance no vote would be come to upon the resolution before the house, because either its adoption or rejection could not fail to be productive of mischief. If it was carried, there would be danger, not only that it might be quoted against us at some future time, but that a wrangle should take place between our own and some foreign government as to what it was that the house had affirmed. If it was rejected, it was certain that on some future occasion either our own or a foreign government would appeal to it as affirming positively as good and legal every word which was contained in the despatch of the Duke of Newcastle. He, therefore, trusted that the resolution would be withdrawn. Passing to the subject of this correspondence, he apprehended that nothing could be clearer than that the question as to whether the Tuscaloosa was a prize or a ship-of-war was not a pure, unadulterated question of law, but a question of law so entirely depending upon facts that you could not have any better judge in such a matter than a naval officer like Sir B. Walker, who had seen the vessel on the spot, and who understood her character, her equipment, and all about her. [Hear, hear.] The evidence of experts was constantly admitted in our courts of law, and in this instance there was no better authority than—there was, in fact, no competent authority except Sir B. Walker. And was there any authority to the contrary? Not a bit. All those who had in this debate opposed the view taken by Sir B. Walker had relied upon passages culled from text-books and upon decisions by Lord Stowell and others; but those decisions, as presented by the honorable gentlemen themselves, did not make out the proposition that the mere existence of the commission was enough to make the vessel a ship-of-war, and that you were not to look behind that commission, go into other facts, and examine whether the vessel really was a ship-of-war or an uncondemned prize. On the contrary, in the case of the Georgina, his honorable and learned friend quoted words which showed clearly that the judgment of the court was not founded upon the mere fact that there had been a commission, but upon other facts which were of great importance. ["No, no."] The honorable member for Truro cited the strongest passage which had been quoted in the course of the debate as to the power of a captain to commission another ship as a tender; but even there the words were that the officer who received the commission might set the vessel forth as a ship-of-war; and there was nothing in the decisions which established that where there was nothing but a commission and an officer put on board the vessel, you were, in the

presence of facts and in spite of arguments to the contrary, to consider the vessel a ship-of-war. [Hear, hear.] In the case of the Georgina there had, as stated by the honorable member for Malden, been put on board ten additional guns and a fighting crew of sixty men, and Lord Stowell decided that the officer had sufficiently "set her forth for war."

Now, in the case of the Tuscaloosa, Admiral Walker, in effect, said, "I, who am a naval officer, and who know what a ship-of-war and also what a tender is, am perfectly certain that this vessel was not a ship-of-war, but a merchant vessel, with her cargo on board." That, he contended, was a statement worth a hundred made by legal gentlemen in that house who took a contrary view, and who could not have the same knowledge of the character of a ship. But the truth was, the case was an exceptional one, and could only be decided by analogy; nor was it possible, he thought, to deny that the analogy drawn by his honorable and learned friend the solicitor general was a good one. The real principle involved in the question was, that the neutrality of this country had been violated, and that the parties by whom it had been violated had no right to turn round and demand restitution for their own wrong. It was said, indeed, that Captain Semmes had pledged himself to the truth of the statement that the ship was a tender, and that his assertion ought to be taken as correct; but it should be borne in mind that he was a commissioned officer of the Confederate States, and, as such, would naturally deem it his duty to run the gauntlet and do what he could for the benefit of his own government; nor in having recourse to a ruse or a trick by which he endeavored to deceive the British authorities, must he be regarded as having acted in any dishonorable sense. Captain Semmes, indeed, might have honestly thought that by calling the vessel a tender and by putting an officer on board her he actually made her what he described; but then he had done an act which was no less an evasion of our neutrality. The attorney general at the Cape, he might add, in giving his opinion on the matter, had cited a passage from Wheaton, which was not applicable to the case; but the governor had, nevertheless, done quite right in acting on that opinion; while with respect to that portion of the despatch of the Duke of Newcastle which had been complained of, it was quite clear that it was not the result of the deliberation of the law officers of the crown, but had been added in the urgency of the moment by the duke himself. If that were so, the house would, he thought, hardly deem it desirable that when the subject was said to be under the consideration of the law officers of the crown, they should bind themselves and the country in all future wars to the statement that the particular part of the despatch to which he referred was at variance with the principles of international law.

He came now to another point. He maintained that, as gentlemen and as Englishmen, the heads of the colonial office could not have acted otherwise than they did after receiving intimation that the Tuscaloosa had been detained. The letter of Mr. Lowe, the officer in command of the vessel when Captain Semmes was absent, had been quoted to the house. The writer spoke of having been entrapped. When the ship went away the first time she had the wool and the skins on board, and the two small guns which Admiral Walker said it was ridiculous to call an armament. She went away as a regular uncondemned prize. When she returned again she certainly had more the appearance of the tender of a man-of-war; and, therefore, if they were not entitled to stop her on the first occasion, she had a right to consider that she would not be stopped on the second. Whatever, therefore, their opinion might have been as to the right of detaining her on the first occasion, it would have been a wrong thing, and, he would add, a shabby thing, for the colonial office to detain her on the second occasion. However, she was then seized, owing to a misconception of his in-

structions on the part of Sir P. Wodehouse. The despatch of the 4th of November never told him that he was to shut his eyes to altered circumstances and act in a blindfold manner. There was to him something like the exhibition of a little pique in the letter of Sir P. Wodehouse, stating that the commander of the *Tuscaloosa* not unnaturally complained of her having been seized after being recognized on the previous occasion as a ship-of-war, but that that was manifestly nothing more than the inevitable result of the overruling by the home government of the decision before come to by a subordinate officer. He thought it was rather the natural result of Sir P. Wodehouse's not having—as he did on the first occasion—consulted his attorney general, who would most probably have told him that he was estopped from detaining the vessel. The home government then sent out another despatch cancelling the detention, and assigning special reasons for that proceeding. It was therein explained that the decision taken was not founded on any general principle, but on the peculiar circumstances of the case, among which was that she had been called the tender of a ship-of-war, although she was merely an uncondemned prize; but that nevertheless she had been allowed to enter and to depart from the Cape, by which her commander might naturally have thought that he could go there again. The government, therefore, came to the conclusion that she ought to be released with a fair warning to her commander and to the captain of the *Alabama* that ships-of-war could not be permitted to bring their prizes into British ports, and that it rested with her Majesty's government to decide to what vessels that character belonged. The despatch concluded by expressly disclaiming, in kind and courteous terms, the intention to censure, in any degree, the course pursued by Sir P. Wodehouse on a question of difficulty and doubt. Now that the Duke of Newcastle had retired from office, he thought it was unnecessary and improper, and even mischievous, for the house to put upon record a resolution which would be quoted against them as meaning something which it did not mean; and, for the sake of the country, for the sake of that which they would all allow her Majesty's government desired in spirit to preserve—namely, an honorable neutrality in our relations with America—he trusted that his honorable friend would not force the house to a vote on that occasion.

Mr. BOVILL thought, while the instructions of the 4th of November remained uncanceled and unaltered, other cases might occur which would be equally mischievous; and although he agreed that the House of Commons was not a convenient tribunal for the determination of questions of international law, it was necessary that the attention of Parliament should be called to the subject. The great difficulty of questions of this kind was in ascertaining the precise facts to which the law was to be applied. A contest had arisen as to the true character of the *Tuscaloosa*. It was originally a merchant vessel, and captured by the *Alabama*. On her capture an officer in the confederate navy was placed on board with a complement of the crew of the *Alabama*, and from that time to the present she had been continuously in the service of the Confederate States. With respect to the character of the vessel, the fact was placed beyond all dispute that she was a vessel-of-war by the very demand that was made by the consul. She was fitted out with arms by the *Alabama* “to prey on the commerce of the United States.” That was the conclusion to which Mr. Graham arrived. The admiral on the station saw the vessel, communicated with her commander, saw the nature of her equipment, and came to the conclusion that she was a vessel-of-war. The governor and the acting attorney general came to the same conclusion. How could she be treated after that as a merchant vessel? It would be a most serious thing if the house were called on, upon the authority of the law officers of the crown, to affirm the correctness of the instructions sent out by the Duke of Newcastle, and within a few

days afterwards to find on the table the amended instructions on which all colonial officers were in future to act. But the misfortune was that those instructions being sent out on the 4th of November, a despatch of the 10th of March of the present year placed the release of the vessel on entirely different grounds; to this hour no alteration had been made in the papers, and if another merchant vessel which had been taken as a prize, fitted out by the Confederate States, and placed in charge of an officer of their navy, found its way to Simon's bay, what course would Sir Baldwin Walker take with regard to it? The instructions of the 4th of November remained uncanceled, and he would only have one course to pursue. He had no alternative but to act on those instructions. He acted on them, and seized a vessel-of-war. Could anything be more humiliating? Instructions went out; contrary to the opinion of the officers of the colony they were acted on; and when the government could not retain their position they were glad to put forward some excuse for giving up the vessel by saying that the captain had been misled and entrapped. [Hear, hear.] Hence the necessity for the House taking notice of the subject. If the vessel was not of the character which had been supposed, then she was a vessel-of-war. It was not necessary to be a vessel-of-war that she should be equipped as a large vessel would be. Even a launch under the command of a midshipman, detailed for a cutting-out expedition, was a vessel-of-war. [Hear, hear.] But even supposing that she could be treated in any other character, then she must be a prize. Then she was a prize taken lawfully, and the property in her had passed to the captors, and no adjudication was necessary. The solicitor general said that the vessel, passing through neutral waters, became liable to seizure, and to be handed over to the original owners. He (Mr. Bovill) maintained there could be no more false proposition, [hear, hear,] and he would be surprised, indeed, if it were put forth by the attorney general. The country had a right to expect a clear statement of the law, because they were told that the subject had been under the serious consideration of the government. The solicitor general had referred to captures in neutral waters. Everybody knew that such captures were illegal if the neutral state interposed; but in the case of a captured vessel passing within neutral territory, there was no power to restore the property to persons who had ceased to be the owners by the law of nations. He would not enter further into the argument, but he thought it would have been better if more candor had been shown, and it had been admitted that the instructions issued had gone beyond what had been sanctioned by the law officers of the crown, and that in future instructions of a different character would be issued. [Hear, hear.]

THE ATTORNEY GENERAL. There are two principal questions as to which, if I rightly understand the motion of the honorable gentleman opposite, it is intended by this vote to ask the house to pronounce that this despatch contains doctrines that are contrary to international law. At all events, in the course of the debate two questions have been raised and discussed on one side or the other. The first proposition laid down in the despatch is, that the vessel called the *Tuscaloosa* did not lose the character of a prize captured by the Alabama merely because she was at the time of being brought into British waters armed with two small rifled guns, was in charge of an officer, and manned with a crew of ten men from the Alabama, and used as a tender to that vessel, under the authority of Captain Semmes, having nothing to give her a warlike character except those circumstances. The first question is, whether that proposition is contrary to international law. The second question is, whether the final proposition in the despatch is of that character. I must express my unfeigned surprise at the extraordinary manner in which the honorable and learned member for Guilford (Mr. Bovill) has dealt with the facts bearing upon the first of these

two propositions. [Hear, hear.] I had hoped that all who took part in this debate would confine themselves to the real facts, and there was no member from whom I would less have expected a miscarriage in that respect than from my honorable friend. But when my honorable and learned friend gravely rises and gravely tells the house that every authority at the Cape, Sir B. Walker as well as others, had agreed in pronouncing the vessel to be a ship-of-war, and entitled to be recognized in that character, I am placed in the dilemma of supposing either that he has not read the papers, or that—which, of course, I do not admit—having read them, he meant to misrepresent them. ["Oh!"] The house shall judge whether I have reason for saying so, and I must also correct an error into which, I am sure by accident and involuntarily, my honorable and learned friend the member for Truro (Mr. M. Smith) has fallen. He said, in the course of his able speech, that Sir B. Walker had expressed an opinion that the ship was duly commissioned as a ship-of-war. I will show the house that a more complete mistake could not be made. What are the facts? In the first place, the letter to which the honorable member for Truro referred does, indeed, use the word "commission," which is the source of his mistake; but how do the subsequent papers correct the erroneous ideas suggested by its use? Under the date of the 7th of August, Sir B. Walker, writing to the governor of the Cape, says: "Captain Forsyth having informed me that the Alabama has a tender outside captured by Captain Semmes on the coast of America, and commissioned by one of the Alabama's lieutenants." [Hear, hear.] The honorable and gallant gentleman opposite may have a better idea of these words than myself, but it seems to be that of one of the lieutenants of the Alabama granting a commission. ["Oh!"] I can only say that it appeared ultimately that there was no commission in the proper sense of the word. I read the words as set down by Sir B. Walker, "commissioned by one of the Alabama's lieutenants," and I defy anybody to define from them what sort of a commission this represents. [Hear, and "Oh!"]

Sir J. D. HAY said that, having been personally alluded to by the honorable and learned gentleman, he wished to remark that when it was said that a captain at Portsmouth had commissioned one of her Majesty's ships, it did not mean that he had conferred that commission upon himself. [Hear, hear.]

The ATTORNEY GENERAL. The honorable and gallant gentleman interprets those words as equivalent to "under the command of one of the Alabama's lieutenants." I believe that is so, and the sequence shows that when the matter came to be carefully considered, the element of the commission was eliminated. In the first place, Sir B. Walker having requested the opinions of the law officers, obtained that opinion, and the house will observe the important consequences which followed that opinion, expressed in Sir P. Wodehouse's letter of the 8th of August to Sir B. Walker, enclosing the opinion of the acting attorney general: "I shall take care to submit this question to her Majesty's government by the next mail, but in the mean time I conclude that your excellency will be prepared to act upon the opinions of the attorney general in respect to any vessels which may enter these ports in the character of prizes converted into ships-of-war by the officers of the navy of the Confederate States." I confess that was a somewhat alarming proposition, as it would suggest to the officers of the Confederate States navy a very simple and easy mode of escaping the provisions of her Majesty respecting the bringing prizes into her ports by putting them into the positions of the Tuscaloosa, and calling them ships-of-war, and introducing them into our ports as acknowledged in that character. But the honorable and learned member for Guilford did not seem to see that Sir P. Wodehouse treated that as a conclusion which naturally followed the opinion of the attorney general when he said that he had taken care to submit it to his

government. But what was the effect of that opinion upon the mind of Sir B. Walker, who has been treated by my honorable and learned friend as among those who have pronounced this vessel to be a ship-of-war? Sir B. Walker having for the first time, from his own officer, obtained true information of the real facts, wrote on the 16th of August to this effect :

"The vessel in question, now called the *Tuscaloosa*, arrived here this evening and the boarding officer from my flag-ship obtained the following information : That she is a bark of 500 tons, with two small rifled 12-pounder guns and 10 men, and was captured by the *Alabama* on the 21st of June last off the coast of Brazil; cargo of wool still on board. The admission of this vessel into port will, I fear, open the door for numbers of vessels captured under similar circumstances being denominated tenders, with a view to avoid the prohibition contained in the Queen's instructions; and I would observe that the vessel *Sea Bride*, captured by the *Alabama* off Table bay a few days since, or all other prizes, might be in like manner styled tenders, making the prohibition entirely null and void. I apprehend that to bring a captured vessel under the denomination of a vessel-of-war she must be fitted for warlike purposes, and not merely have a few men and two small guns put on board her (in fact, nothing but a prize crew) in order to disguise her real character as a prize."

My honorable and learned friend must have overlooked that despatch. Then what does Sir Baldwin add?

"Now this vessel has her original cargo of wool still on board, which cannot be required for warlike purposes, and her armament and the number of her crew are quite insufficient for any services other than those of slight defence. Viewing all the circumstances of the case, they afford room for the supposition that the vessel is styled a 'tender' with the object of avoiding the prohibition against her entrance as a prize into our ports, where, if the captors wished, arrangements could be made for the disposal of her valuable cargo, the transhipment of which, your excellency will not fail to see, might be readily effected on any part of the coast beyond the limits of this colony. My sole object in calling your excellency's attention to the case is to avoid any breach of strict neutrality."

It is not upon the papers, but we know as a matter of fact that what Sir Baldwin Walker apprehended about the cargo actually happened. We know that when the *Tuscaloosa* left the Cape she went to Angra Pequena, and deposited her cargo of wool and skins on the rocks of that island, having previously, while in the waters of the Cape, made such an arrangement that she was followed by the colonial ship *Saxon*, which took in the cargo for the purpose of disposing of it for Captain Semmes in the Cape colony, an enterprise which unhappily resulted in loss of life. The real question is, whether that is not a mischief of the most serious character which, if permitted, would place it within the power of any captain of the federal or confederate navy, by any easy ruse, to violate and trample under the foot of contempt the order made by the British crown for the preservation of British neutrality. [Hear.] If any opinion can be more strongly expressed than another, it is that of Sir Baldwin Walker, and I agree with my honorable and learned friend the member from Tiverton that this matter of fact is one of which Sir Baldwin Walker was a far better judge than all the lawyers in the world. It was his opinion that the ascertained facts concerning the *Tuscaloosa* were such that the true conclusion was that the character assumed of a ship-of-war was not real, but feigned, and that to recognize it would have the effect of enabling anybody to laugh at her Majesty and set her prohibitions within her own territory at defiance. [Hear, hear.] What was the result? So much impressed was Sir P. Wodehouse with the force of these observations, and with the authority from which they proceeded, that he

thought it necessary to refer the question once again to the acting attorney general of the colony. I wish to speak with the utmost respect of the colonial attorney general. I have had more opportunity than the house would have from the simple perusal of these papers of knowing that he is a most able, upright, and excellent public servant. [Hear, hear.] He exercised his judgment to the best of his ability upon the question put before him. If he was in error—and it is not for me to do more than submit my view upon that point to the house—he is not to be blamed for it, for it was one into which he fell because he was called upon to determine a most difficult question under circumstances which precluded him from having full and accurate information. The house will understand, therefore, that not a word I say is intended otherwise than most respectfully towards that learned person. I believe his first opinion was based upon an assumption of facts which, if correct, would probably have justified it; but I must take the liberty respectfully of saying that the propositions contained in his second opinion, which was given on the 10th of August, 1863, are propositions which I think are most dangerous and erroneous. He was evidently misled by the error of supposing that the passage he had referred to in *Wheaton* was applicable to this case. Of course you may reason by analogy from one thing to another, but I shall show that the passage in *Wheaton* cited by the colonial attorney general and the authorities referred to in this debate are quite beside the mark, relating to a subject of an entirely different character. What were the conclusions drawn by the colonial attorney general from those authorities? They are stated in a despatch of the governor, dated August 10:

“The information given respecting the actual condition of the *Tuscaloosa* is somewhat defective; but, referring to the extract from *Wheaton* transmitted in my last letter, the attorney general is of opinion that if the vessel received the two guns from the *Alabama* or other confederate vessel-of-war, or if the person in command of her has a commission of war, or if she be commanded by an officer of the confederate navy, in any of these cases there will be a sufficient setting forth as a vessel-of-war to justify her being held to be a ship-of-war.”

So that the colonial attorney general was of opinion that though the *Tuscaloosa* should have no commission, though she should not even have an officer of the confederate navy on board, yet if her two guns had been received from the *Alabama*, that was a good reason for calling her a ship-of-war. He was also of opinion that though she should have no commission or no guns, yet if she was commanded by a confederate officer that was enough. [Hear.] I am bound to say that his opinion is founded upon a complete misconception of the law. [Hear, hear.] The authorities to which he referred—although I admit he discharged his duty to the best of his ability and judgment—misled him, because he read them in a text-book, was not able to make himself acquainted with the cases on which the passages he cited were founded, and did not observe how special and limited was their bearing upon the question before him. Let the house mark what was the result. The governor, who of course thought it his duty to act upon the opinion of the attorney general, communicated that opinion to Sir Baldwin Walker; Sir Baldwin did not change his own original opinion, but of course he had to apply the law of the attorney general to the facts of the case. Accordingly on the 11th of August he writes:

“I have the honor to acknowledge the receipt of your excellency's letter, dated yesterday, respecting the confederate bark *Tuscaloosa*, now in this bay. As there are two guns on board, and an officer of the *Alabama* in charge of her, the vessel appears to come within the meaning of the cases cited in your above-mentioned communication.” [Hear, hear.]

There were three cases put : first, guns put on board by a confederate vessel ; second, a commission ; third, an officer of the confederate navy in command ; and Sir Baldwin Walker finds that the first condition is fulfilled, and the third, but not the second. [Hear, hear.] To make it more clear, it is distinctly so stated in the despatch of Sir P. Wodehouse, dated August 19. I ask the attention of those who wish to see how serious a question the government had to consider and determine to the whole of that despatch, because it shows that with all the courtesy, address, and gallantry which would no doubt distinguish officers in command of ships of the confederate, or, I should hope, any other navy, if you give them an inch they will take an ell, and that the effect of any relaxation of your laws and rules of neutrality is such that you will soon be entangled in questions of a character which, if you permit them to arise, will embarrass in a manner that it is the interest as well as the duty of this country to avoid. [Hear, hear.] No one can accuse Sir P. Wodehouse of any prejudice against Captain Semmes, or any partiality against the Alabama. I believe him to be impartial, fair, and just ; but what are the doings of the Alabama in the Cape waters recited by Sir P. Wodehouse himself ? He says :

"The Alabama, leaving her prize outside, anchored in the bay at 3.30 p. m., when Captain Semmes wrote to me that he wanted supplies and repairs, as well as permission to land thirty-three prisoners. After communicating with the United States consul, I authorized the latter, and called upon him to state the nature and extent of his wants, that I might be enabled to judge of the time he ought to remain in the port. The same afternoon he promised to send the next morning a list of the stores needed, and announced his intention of proceeding with all despatch to Simon's bay to effect his repairs there. The next morning (August 6) the paymaster called on me with the merchant who was to furnish the supplies, and I granted him leave to stay till noon of the 7th. On the morning of the 8th Captain Forsyth, of the Valorous, and the port captain, by my desire, pressed on Captain Semmes the necessity for his leaving the port without any unnecessary delay, when he pleaded the continued heavy sea, and the absence of his cooking apparatus, which had been sent on shore for repairs, and had not been returned by the tradesman at the time appointed, and intimated his own anxiety to get away. Between 6 and 7 a. m. on Sunday, the 9th, he sailed, and on his way round to Simon's bay captured another vessel, but on finding that she was in neutral waters immediately released her." [Hear, hear.]

It was quite right to release her, and it was also necessary. But see the state of things you have got here. Captain Semmes gets an enlargement of time, and when he leaves he captures a vessel in neutral waters. These are circumstances which ought to warn every one of the importance and necessity of observing strictly the rules made for the preservation of neutrality. [Hear, hear.] Further on in the same despatch Sir P. Wodehouse says :

"An important question has arisen in connexion with the Alabama, on which it is very desirable that I should, as soon as practicable, be made acquainted with the views of her Majesty's government. Captain Semmes had mentioned, after his arrival in port, that he had left outside one of his prizes previously taken, the Tuscaloosa, which he had equipped and fitted as a tender, and had ordered to meet him in Simon's bay, as she also stood in need of supplies. On the 8th of August the vessel entered Simon's bay, and the admiral wrote that she had two small rifled guns, with a crew of ten men, and that her cargo of wool was still on board. He was still doubtful of the propriety of admitting her. On the 10th of August, after further consultation with the acting attorney general, I informed Sir Baldwin Walker that if the guns had been put on board

by the Alabama, or if she had a commission of war, or if she were commanded by an officer of the confederate navy, there must be held to be a sufficient setting forth as a vessel-of-war to justify her admission into port in that character. The admiral replied in the affirmative on the first and last points, and she was admitted."

Sir Baldwin Walker replied as to the guns and as to the officer, but not—and let the house and the honorable and learned member for Guilford take notice—as to the commission. [Hear, hear.] My honorable and learned friend the member for Truro will see that his inference from the use of the word "commission" in the first letter of Sir Baldwin Walker, written before the facts were ascertained, falls to the ground when we know that the facts, when they were ascertained, were found to meet the first and last points laid down by the attorney general, but not the second. One thing is quite clear, that no commission belonging to the Tuscaloosa was ever exhibited. [Hear, hear.] And now I wish the house to do me the favor to turn for a moment to the error into which the acting attorney general, not at all unnaturally, fell—an error in which he has been followed by several speakers in the debate this evening, when he took this setting forth the vessel for war as being a criterion for deciding a question which arose under the Queen's neutrality orders. The statute declares that if in a war in which we are belligerents one of our ships shall be taken by the enemy, on being retaken at a later time it shall be restored to the original owner, except in the particular case provided for by the statute, and in cases where the vessel has been employed for purposes of war. We have all the dangers and perils of war to encounter in capturing a ship once employed in fighting against us, and it is therefore but fair that the reward of that danger and peril should also fall to our lot, and that the title of the original owner should not be recognized. The title of the original owner is, however, recognized in many cases where it would have been entirely forfeited by international law. The case of a recapture by a belligerent power has nothing to do with the question whether a neutral power not at war should in one way or another vindicate its neutrality when that neutrality has been subject to violation. The statute has no force in reference to the subject with which you are dealing. This view has been taken by Mr. Justice Story, no mean authority, [hear, hear,] in a similar case which has been decided by him. It is perfectly clear that, as far as the character of this vessel was concerned, our estimate was the correct one. I must here guard myself against admitting what I believe to be a very dangerous doctrine, namely, that we should allow any concealment of the character of the prize to be the means of enabling the captor to take the vessel beyond the reach of her Majesty's neutrality orders. Such a principle would find no authority in international law. No sovereign would be mindful of his dignity if he allowed his authority to be set at naught by the captor of a ship merely going through certain forms. It is as competent for a sovereign to prohibit or limit the entry of public ships-of-war within his territory as for him to prohibit the entry of prizes. The principles of international law would fully vindicate a sovereign in the exertion of such authority. At the same time, although the methods for effecting this object are at his discretion, he would be bound not to use harsher means than the exigencies of the case demand. It appears to me, therefore, that this portion of the despatch is not only well justified, but that this country would have been most unmindful of its dignity, and its neutrality orders have been absolutely set at defiance, if it had arrived at a different conclusion, taking the facts as they were reported. When the Tuscaloosa came back the second time there was something resembling an equipment, and something resembling a commission, and therefore questions of a totally different character arose as compared with those which her first

visit gave rise to. The question, however, before the house is not the determination of her character upon the occasion of her second visit. We must take the facts as they stand upon the 4th of November, and as they were then reported to the government. And now I come to the second branch of the case, and that is the suggestion of what should be done if the result of the inquiries proved that the vessel was really an uncondemned prize brought into British waters in violation of her Majesty's orders made for the purpose of maintaining her neutrality. The words employed by the Duke of Newcastle are:

"I consider that the mode of proceeding in such circumstances most consistent with her Majesty's dignity, and most proper for the vindication of her territorial rights, would have been to prohibit the exercise of any further control over the *Tuscaloosa* by the captors, and to retain that vessel under her Majesty's control and jurisdiction until properly reclaimed by her original owners."

Now, I have not the least wish to avoid any portion of the responsibility for that passage. It is true, as was stated in another place, that the law officers of the crown had suggested that which is expressed in the words I have read as matter for serious consideration. Undoubtedly if the despatch had been submitted to them, it is probable that they might have proposed some supplement to it, and it would not have been entirely in accordance with their intentions that it should go out in a form so short and little developed as that in which it now appears. [Ironical cheers.] Of course the house will understand that I would not have said so much, if it had not been for the statement made in another place. We are bound to accept the full responsibility for the passage as it stands. With the exception that the matter was mentioned by us as worthy of serious consideration and not to be laid down without further reflection, the very words are those in which it was suggested for consideration by the law officers. The Duke of Newcastle might naturally suppose that the law officers intended thereby to intimate the opinion which he adopted, and they would not have intimated it had they not thought the principle involved sound. [Hear, hear.] If blame be due anywhere, it is to us, and I am ready to take upon myself a particular share of it. At the same time, although the question is an open one, and there may be differences of opinion as to whether or not, under such circumstances as those of the *Tuscaloosa*, it would not be an extreme exercise of her Majesty's powers to retain a prize for the purpose of restoring her to the original owner, I am prepared to maintain with confidence that no principle inconsistent with international law is expressed in any part of this passage. [Hear, hear.] The case is that either of a wilful violation or fraudulent evasion of the orders issued by the British crown for the maintenance of our neutrality, that violation or evasion taking place within the territory of Great Britain. That is the principle involved. The rest is merely a question of discretion and moderation in carrying out that principle. Can it be said that a neutral sovereign has not a right to make orders for the preservation of his own neutrality, or that any foreign power whatever violating these orders, provided it be wilfully or fraudulently, is protected to any extent by international law within the neutral territory, or has any right to complain on the grounds of international law of any means which the neutral sovereign may see fit to adopt for the assertion of his territorial rights? By the mere fact of coming into neutral territory in spite of the prohibition, a foreign power places itself in the position of an outlaw from the law of nations; and it is a mere question of practical discretion, judgment, and moderation, what is the proper way of vindicating the offended dignity of the neutral sovereign. [Hear, hear.] We have had no answer to what was stated by the solicitor-general as to the principle upon which neutral governments have hitherto acted when their neutrality had been violated under circumstances at all of a parallel character to those of the present case. Reference had been made to the case of prizes taken within neutral jurisdiction;

but there is some confusion on this point. If there is one proposition more clear than another in international law, it is that in such a case the wrong is against the neutral alone. At the engagement of Lagos, in the time of Lord Chatham's ministry, our navy captured a number of ships in Portuguese waters. Lord Chatham said to our minister: "Make any apology you please, say anything you like to satisfy the dignity of the King of Portugal, but give back not one of the ships." Thus we see the principle laid down that between belligerent and belligerent a prize is a good prize, provided the neutral does not interfere to vindicate his own neutrality. It is usual for the neutral who has interfered under such circumstances to restore the prize to the original owner, but the latter has no right to claim it from the neutral as a man can claim his property in a court of law. The object of the proceeding being to vindicate the territorial rights and guard the neutrality of the sovereign, he does not, of course, want to make money out of the transaction, and therefore restores the prize to the original owner. I quite admit that the United States consul was all at sea about the matter. [A laugh, and "hear, hear."] He seems to have thought that until there was a condemnation in a prize court, or something else done, the original owner would, as a mere matter of course, be entitled to the restoration of his property. There is no foundation for that idea. If her Majesty had not been pleased to issue orders that prizes should not be brought into British ports, it would have been competent to bring them in, and no demand for the restoration of any prize by the original owner could have been listened to. [Hear, hear.] I must now remind the house of the more recent doctrine as to the restoration of prizes, the origin of which may be said to be due in a great measure to ourselves, and which has been laid down and recognized in the United States. I refer to the case where, although the prize itself has been captured at sea far from the jurisdiction of the neutral sovereign, yet it has been taken by a ship which has violated, by equipment or fitting out, the territorial rights of the neutral power, and is consequently supposed to come in with the taint of a violation of neutrality attaching to it. Under these circumstances it had been held that the neutral sovereign has a right to retain the prize, with a view to restore it to the original owner. In 1793, when certain privateers were fitted out by the French in the ports of the United States, if not with the connivance of, at least without being prevented by, the government of the States, Mr. Hammond urged them not only to repress these privateers for the future, but to restore every capture they might bring into ports of the United States. The American government determined at once to accede to that part of the demand which was directed against the future preparing of privateers in their ports, and communicated that decision on the 5th of June to M. Genet, the French minister. At the same time they refused peremptorily to restore the prizes brought in by privateers, because they had been fitted out, they said, without the knowledge of the government. The French, however, continued to send out more privateers, and the American government, after again considering the matter, on the 25th of June, 1793, determined that all privateers fitted out after a certain date should be detained in the custody of the consuls of the ports "until the government of the United States should be able to inquire into and decide on the facts." Subsequently the President, on the 12th of July, announced his resolution to refer the questions concerning prizes "to persons learned in the laws," and requested that certain vessels enumerated in the letter should not depart "until his ultimate determination should be made known." Again, on the 7th of August, the President, through his secretary, informed M. Genet that he had determined to restore all prizes brought into American ports by privateers fitted out of their ports. When the treaty was made in 1794-5 there was an article by which the United States bound themselves to make compensation to this country for all prizes which might be brought into their ports by privateers fitted out after the 5th of June, and the restitution of which had not been ef-

fects. That is the origin of the doctrine, and it shows that all these cases proceed upon the principle that where there has been a violation of neutrality, the neutral government has, within its own territory, the right to determine how that violation shall be redressed as regards all prizes brought within its jurisdiction. The principle upon which the American government acted in establishing this doctrine—the principle upon which all governments act with respect to the restitution of prizes taken within their territorial limits—is applicable here, subject only to the question whether in particular circumstances it is necessary to resort to that mode of vindicating the honor and dignity of the sovereign. I can refer to a precedent more directly in point than those that have been given. In 1658 the States General of Holland had occasion to issue ordinances for the purpose of preventing the entrance into their ports of ships-of-war bringing prizes. It had been usual to allow the free access of such ships with their prizes; but these ordinances were issued, and in some parts they go far beyond anything which is suggested by the Duke of Newcastle in his despatch. The first ordinance, issued on the 9th of August, 1658, prohibited the captors of prizes brought into the ports of Holland, even under stress of weather, from disposing of anything on board, and they were put under strict watch and ward. In the ordinance of November 7, 1658, there was a further prohibition of the vessel from being brought into the harbor; it could only be brought into the Zee-gaten, where it was safe from danger; and if any one acted otherwise, the prize, as if it had not been captured, was to be restored to him from whom it had been taken, the captor was to be detained, and, after due inquiry, his ship was to be forfeited and sold. That was going much further than I have advised the government to go. ["Hear," and a laugh.] It is quite plain that the States General had no doubt about their right to make these prohibitions, by the threatened restitution of prizes, and even by stronger measures. Then, I say that the principle cannot possibly be shown to be against international law. Whether or no persons may come to the conclusion that, under certain circumstances, a less strong course would be sufficient, is another question. But the question before the house is, whether the principle is against international law, and I say that it is justified by every precedent which can be cited on the subject. It does not follow either that all uncondemned prizes are to be restored, or that the original owner has a right to claim their restitution. The neutral sovereign restores them in vindication of his own dignity and authority, and the violation of neutrality is the indispensable condition of calling this principle into play at all. It is not that every uncondemned prize should be restored where there is no violation of neutrality, and where there has been a violation of neutrality the fact of a condemnation in a prize court may be a reason for not restoring the prize, because such a condemnation may be held to obliterate the title of the original owner. In the case before Mr. Justice Story it was attempted to be proved that a condemnation had taken place, and he seems, undoubtedly, to have entertained the opinion that if it had been shown that the ship had been regularly condemned, there would have been an end of the question. I think I have now said all that is necessary to meet the motion of the honorable gentleman and to prove that no principle is here laid down at variance with international law, and that within her own territory her Majesty is absolutely sovereign and supreme—that she has a right to prohibit the entrance of prizes or no prizes; and that, if her prohibition be disregarded, she is the competent and the only judge of the measures which ought to be taken for the vindication of her authority. That is the principle of the despatch, and it cannot be shown that such an offender against international law as a belligerent who disregards such orders is entitled to complain of the measures taken to vindicate the rights of the territorial sovereign. [Hear, hear.] Whether milder measures would have been sufficient in any particular case is fair matter for consideration and controversy. The government is not bound by what has

passed, and is as much at liberty now as before the despatch was written to reconsider the question, and either to recede from or adhere to the course indicated, as they may think proper. Although I have no doubt that Sir Philip Wodehouse acted in the most loyal manner, with the most sincere and upright intention to follow his instructions, I think if he had construed his instructions differently he would have been well borne out. For what do his instructions say?

"If the result of these inquiries had been to prove that the vessel was really an uncondemned prize, brought into British waters in violation of her Majesty's orders made for the purpose of maintaining her neutrality, I consider that the mode of proceeding in such circumstances, most consistent with her Majesty's dignity, and most proper for the vindication of her territorial rights, would have been to prohibit the exercise of any further control over the *Tuscaloosa* by the captors, and to retain that vessel under her Majesty's control and jurisdiction until properly reclaimed by her original owners."

But when the ship had been recognized as a public ship-of-war on a former occasion, of course her commander had a right to assume that on a subsequent occasion she would have been received in the same character. As soon as the news that the *Tuscaloosa* had been detained arrived here, I entertained not only deep regret, but a stronger feeling, and had no doubt that she ought to be released. She was released, and for doing this, on the ground that good faith and honor required us to do so, we have been taunted. Why, when good faith and honor are in question, will any one say that you ought not to put these grounds first and foremost? Even if this ship had come into the port with fewer men and with fewer guns on board, and with the character of a vessel-of-war less strongly impressed upon her, still these grounds of honor and good faith would have made it absolutely necessary, under the circumstances, not to take advantage of that state of things, but at once to release her. [Hear.] The only becoming course for the government to take, therefore, was to recognize immediately the justice of Lieutenant Low's reclamations, founded upon the fact that the ship had been at first received without question—to treat her as coming in under a virtual safe-conduct, and to say that the instructions sent to the Cape had been misconstrued. I regret that this should have occurred, but no other course could properly have been taken by the government. Well, then, is the house to affirm the resolution of the honorable member, that the principles laid down in the despatch are contrary to international law? I say that if the house affirms any such thing it will be affirming that which will be derogatory to the supremacy and the sovereignty of the Queen; it will be affirming that there are powers in time of war which have a right to set at naught, either by device and fraud or otherwise, the orders of the territorial sovereign, not only upon the high seas, but within the territory of that sovereign; it will be affirming that belligerents may violate that territory, and at the same time claim the benefit of international law against any measures taken in vindication of the authority of the territorial sovereign. I hope the house by its vote will protest against such a doctrine. [Hear, hear.] The question is not whether this was the wisest, the most moderate, the most proper course, a point on which opinions may differ, though some credit should be given to the sincere desire of the minister who wrote this despatch to be strictly impartial and fair in carrying out this principle. If the house thinks that the orders given went upon too extreme an application of the principle, still it must appreciate the purpose and intention of the minister—namely, to enforce the authority of his sovereign, and to maintain the neutrality to which this country stood pledged towards the world. [Hear, hear.]

Sir H. CAIRNS. I am glad the attorney general told us that our business was not to affirm the wisdom of the conduct of the government in the course of these transactions. I believe if that had been the proposition before the house,

not even the attorney general, who has been as bold as most men to-night—not even the solicitor general, who was not quite so bold as the attorney general—not a single member would have ventured to say that the transactions which are detailed in these papers have been characterized by the attribute of wisdom. ["Hear," and laughter.] But before we go to a division, I want the house to understand what is the question on which we are going to divide, for I think the attorney general has mistaken the question. I venture to think that the discussion has ranged over two questions which are of a very different nature. The first is : What was done to the Tuscaloosa, and was she a ship-of-war or not ? The other, the one raised by the motion of my honorable friend, the member for Maldon, is : What are the instructions given to our agents as to what is to be done in future ? [Hear, hear.] Now, on the Tuscaloosa and her character I shall say a very few words. It has been stated by the attorney general, and by the solicitor general also, that the circumstances connected with this vessel when she first came to the Cape were of a very suspicious character. Now, I will make an admission to the government. I think those circumstances were very suspicious. [Hear, hear.] I think that was eminently a case in which the colonial government was bound to consider what was really the character of the Tuscaloosa, and whether she was in reality a prize when she was passed off as a vessel-of-war. But I think no better opinion could have been had on that point than the opinion of the American consul. [Hear, hear.] He of all men was interested in making the best case he could against the vessel, and I will take his statement concerning her when she came into the harbor and before the attorney general was consulted. I find, on the 10th of August, the United States consul writing to Governor Wodehouse in these terms :

"An armed vessel named the Tuscaloosa, claiming to act under the authority of the so-called Confederate States, entered Simon's bay on Saturday, the 8th instant. That vessel was formerly owned by citizens of the United States, and while engaged in lawful commerce was captured as a prize by the Alabama. She was subsequently fitted out with arms by the Alabama to prey upon the commerce of the United States." [Hear, hear.]

The United States consul says she came in as a man-of-war, to do the business of a man-of-war, and prey on the commerce of the United States. [Hear, hear.] Now, what is the use of splitting hairs on the number of guns she had on board or the number of men, when the only person put in motion at all was the United States consul, and that was his judgment as to the character of the vessel ? I must also set the attorney general right with respect to a grave mistake. He says the commission of the ship was moonshine—there was no commission at all—nobody supposed there was any commission. I should like to know whether Sir Baldwin Walker, or any other person on the part of the government, asked for her commission. That was the natural course to take. We must remember that, of course, the officer in command could not volunteer that information, because there never was a word said to him on the subject, though this controversy was going on between Sir B. Walker and Sir P. Wodehouse, and the only person not acquainted with the subject of the controversy was the person who could have given the necessary information. [Hear, hear.] But what took place when she came back ? Why, that a number of very proper questions were framed by Sir Baldwin Walker to be put to the commander, and among them was this : "What papers are on board to constitute her as the confederate bark Tuscaloosa ?" To which the commander's reply was : "The commission of the lieutenant commanding the Tuscaloosa, from Captain Semmes. The officers also have commissions to their ship from him." [Hear.] It thus appears that as to her papers the vessel was regular, and that the necessary ingredient which the attorney general said was wanting was not wanting at all, and the moment it was asked for it was produced. [Cheers.] When they did not know whether she had a commission

they let her alone, but the moment she produced her commission they seized her. [A laugh and cheers.] I shall now state the objection I have to what the Duke of Newcastle did when information was sought from the home government by our agents at the Cape. When I say the Duke of Newcastle, I don't mean to throw the responsibility on him, because the reports and despatches sent out by him were the embodiment of the deliberate opinion of the government. The government knew that the difficulty experienced by our colonial agents arose from the fact that she had been a prize, but had come into the harbor under the appearance of being a man-of-war, and that what they wanted to know was whether her character as a man-of-war merged the character she had as a prize. That was a very plain question. [Hear, hear.] What was the reply given to it by the Duke of Newcastle, writing for the government?

"Whether in the case of a vessel duly commissioned as a ship-of-war, after being made prize by a belligerent government, without being first brought *capta prandia* or condemned by a court of prize, the character of prize, within the meaning of her Majesty's orders, would or would not be merged in that of a national ship-of-war, I am not called upon to explain. It is enough to say that the citation from Mr. Wheaton's book by your attorney general does not appear to me to have any direct bearing upon the question."

The colonial ministers having pressed her Majesty's government to give them their views on that and other very important questions, the despatch in reply commences: "I will now proceed to convey to you the views of her Majesty's government on these questions," and then proceeds, in the passage which I have just quoted, to state that on the first of these questions the government did not consider themselves bound to give any information at all. [A laugh.] Well, on the second visit of the *Tuscaloosa* she was seized by the authorities in the Cape, and when the home government heard of her seizure they gave orders for her release. I agree with the attorney general in thinking that that was the best thing that could be done under the circumstances. But observe the ungracious way in which that was done. In a letter of the 10th of March the Duke of Newcastle says:

"Her Majesty's government have, therefore, come to the opinion, founded on the special circumstances of this particular case, that the *Tuscaloosa* ought to be released, with a warning, however, to the captain of the *Alabama*, that the ships-of-war of the belligerents are not to be allowed to bring prizes into British ports, and that it rests with her Majesty's government to decide to what vessels that character belongs."

Her Majesty's government had decided that the *Tuscaloosa* was a ship-of-war. ["No, no," from the ministerial benches, with cries of "Hear, hear," from the opposition.] Her Majesty's government had not blamed or reprimanded Sir Baldwin Walker for the view he had taken, and the attorney general has told us that as she had been allowed to depart after her first visit, it would have been a gross violation of faith to keep her when she came the second time. [Hear, hear.] Accordingly she was ordered to be released, but as she had been detained for some time the duty of the government was to have made an apology, to have said, "We are sorry for what has occurred; it occurred under a misapprehension; you shall have your ship back, and for any loss you may have sustained you shall be indemnified." [Hear, hear.] The government say that they wish to maintain strict neutrality; but I want to know whether they do so. [Hear, hear.] Will any member of the government stand up and say that if a ship of ours had been seized by another power, as they seized the *Tuscaloosa*, would they have been content with a despatch stating that it was a mistake, and with the restoration of the ship without apology? [Hear, hear.] You act so with a people with whom you think you can deal in that way with safety; but would you have acted so with the United States? [Hear, hear.] Was that the course you took with the United States when you found that they had

been guilty of a gross violation of our neutrality with respect to enlistment on the coast of Ireland? [Cheers.] This may be the vaunted neutrality of the government, but it in no wise deserves the name, because it consists in doing all the mischief you can to one belligerent so long as you think it is safe to do it, and, when you find you can no longer do it with safety, in ungraciously, churlishly, and without apology, restoring the property you are afraid any longer to keep. [Cheers.] I now pass from the matter connected with the Tuscaloosa, and come to the more important point to which the motion refers—namely, that the instructions contained in the Duke of Newcastle's despatch of the 4th of November, 1863, which still remain unrevoked, are at variance with the principles of international law. This has nothing to do with the case of the Tuscaloosa, for that is past and gone, and the question is whether those instructions, issued for the future, may not land you any morning in a war not only with one of the belligerent powers, but with the neutral powers of Europe. I thought, from what had passed a few evenings ago in another place, that we might have been relieved from discussing this question. I did not understand the foreign secretary to have justified for one moment, in point of international law, the correctness of the Duke of Newcastle's instructions with respect to the future. On the contrary, I understand him to have said that he agreed in thinking that the despatch went somewhat too far; and he said that the question whether prizes should be seized and detained was one deserving serious consideration. If the despatch had contained those words it would have been the climax of the despatch, for in the first part it would refuse to give the information asked for on one point; and on the other point it would have stated that the question was one deserving serious consideration. [Cheers and laughter.] However, to-night we have had a view presented to the house, which makes it incumbent for the house to deal with the question. If the law officers of the crown had followed the course taken by the foreign secretary, "We do not justify the instructions in that despatch, and are proceeding to take measures to revoke them," we might have been relieved from the present discussion; but to-night, in the boldest and strongest language, the attorney general and the solicitor general have been heard to affirm every word of the instructions, and to contend that they are consistent with international law. What is the order of her Majesty which is said to have been violated? It is this: Lord Russell, writing to the lords of the admiralty, says that her Majesty is desirous of preserving strict neutrality, and with a view to carry that intention into effect it is proposed to interdict the armed ships and privateers of both parties from bringing prizes into the ports, harbors, and roadsteads of the United Kingdom and colonies. Therefore, the government issue instructions to naval and other authorities accordingly. That is the only intimation given, and if the matter rests there, I contend with perfect confidence that it would have been a gross violation of good faith and international law for the government to give instructions to their officers without notice to the officers of either of the belligerents—that, if a prize came into a harbor belonging to the Queen, they were to seize it, divest it from the persons who brought it in, and restore it to the original owner. There is no good faith in that; but the matter does not rest there. I will ask the house to get rid of the question altogether as relating to the confederates, because some gentlemen have strong views with regard to them; but suppose a vessel belonging to the United States captured a prize at sea, and found it convenient to bring it into one of our colonial harbors, I want to know what course would be taken. I can understand that our officials in the colonies might desire the prize to be taken away, might prevent the prize having communication with the shore, and might use force, if necessary, to make the prize leave the harbor and go out to open sea; but do you suppose that if our naval forces at one of our colonies were to attempt to capture the prize and give it to the confederates, the United States would for one moment tolerate such

conduct? [Hear, hear.] Suppose the northern States of America captured a French ship, thinking her a proper prize, and carried it into one of our harbors; the governor, acting on your instructions, seizes the prize and hands it over to the French owner. But he will not come to you at all; he will go to the court of the capturing power—the prize court of the United States—and say, “Where is my ship? Restore it to me with costs and damages.” The French owner goes to the American court and says, “Bring in my ship, in order that I may have it restored and get my costs and damages.” “No,” says the captor, “we haven’t got it; the English government took it from us; very likely they are keeping it for you at the Cape of Good Hope.” To the Cape of Good Hope then goes the French owner and makes his demand. “Oh yes!” says the colonial governor, “We’ve got it all right; here it is—you are quite welcome to it.” “Well, but,” says the French owner, “what about my costs and damages [hear]! my ship has been rotting; she has lost a voyage, and the damages I want are a great deal more than the value of the ship.” I want to know whether the government are going to undertake to pay costs and damages in such cases. This is not the case of a belligerent; it is the case of the French government; and will you tell the French government that you will not pay costs and damages; that they may be thankful to get back the ship, although you have deprived them of the advantage which international law gave them of going to the court of the captor and getting costs and damages there? [Hear, hear.] Does the attorney general mean to say that is international law—that there is any precedent for such doctrine? If we are to have any more argument to-night [“no, no,” from the ministerial, and ironical cheers from the opposition,] I shall be—I shall be glad to hear whether the government can controvert that clear proposition. What is the sole fragment of authority for the doctrine which the attorney and solicitor generals have propounded in the House of Commons to-night? I was very much surprised to hear this authority first put forward by the solicitor general in a very solemn manner, and repeated afterwards by the attorney general. Says the solicitor general, it is not a new doctrine—it is quite old and common; it depends upon the simplest and clearest principles, because it is a plain doctrine of international law that if a prize is taken in neutral waters the neutral steps in, takes the prize, and restores it to the owner. Moreover, the same thing happens when a prize is taken on the high seas by a ship fitted out in the neutral jurisdiction; whenever the prize comes within the jurisdiction of the neutral the neutral may seize and hold it for the owner. And, say the attorney and solicitor-general, the ground of this is that your neutrality has been violated; and whenever your neutrality has been violated you may go at once and seize any prize which comes into your possession. I was very much amused at an observation of the attorney general in reference to the colonial attorney general, which he might perhaps have rather more justly applied to the solicitor general. My honorable friend said that the colonial attorney general when he quoted Wheaton—which was a text-book—did not perceive the special and limited application of what he was quoting. I venture to recommend that observation to the solicitor general. [A laugh.] It is a dangerous thing to quote elementary writers unless you cite the whole of what they say on a particular subject. If the solicitor general had looked a little closer at this part of Wheaton he would have seen there a most material statement, which would have relieved him from much of the obscurity into which he has fallen. Wheaton says: “The jurisdiction of the national courts of the captors to determine the validity of captures made under the authority of their government is exclusive of the judicial authority of every other country, with two exceptions only,” which two exceptions are the cases mentioned by the solicitor general, and which, being two exceptions only, negative the idea of there being any other exceptions. The first is where a capture has been made within the territorial limits of the neutral, and the second where it has been

made by an armed vessel fitted out within the neutral jurisdiction. Wheaton then goes on to say that Louis XIV did make an *ordonnance* in 1681, by which he attempted to extend the rule; but it was always considered unsound international law, and had never been acted on. This is not a mere question of words. No power has got the right to take a prize by the strong hand and restore it by the strong hand. What your right is, is to set up an admiralty jurisdiction to determine the question of rightful capture. These questions are not to be determined by a colonial secretary, but by a court duly founded for the purpose; and no international law has said that you may have a prize court unless in those two excepted cases; and if you go beyond those cases you go beyond the limits and violate international law. [Hear.] The attorney general was driven by despair to rely on an ordinance of Holland 200 years old, [a laugh,] which, so far as we know, has never been acted on, and which, if it were acted on, would prove immensely too much—in fact, so much that I don't suppose the attorney general would rely on it for a moment. It was a municipal ordinance passed to this effect—that if a ship-of-war and a prize came into a certain part of their canals, not only the prize should be seized, but the ship-of-war also, and everybody on board put in prison. [A laugh.] Is that the view of international law taken by the government? ["Hear, hear," and laughter.] These are the only authorities which the government can produce. Mr. Wheaton, into whom the solicitor general has only cursorily looked, when he is properly understood, limits interference expressly to two exceptional cases; and as for the Dutch ordinance, I make the attorney general a present of that with all my heart. [Hear, hear.] If the government had told us here as was declared in another place, that they were not prepared to contend for such propositions of international law, then we should have no more to say; but here they contend that these propositions are right, and I say it is the duty of this house to take the matter up. The government, we are told, are considering the matter, but they are considering it with the idea that they have got a right to seize these prizes. It is an affair which demands the attention of the House of Commons, for some morning we may wake up and find a conflict arisen in some one of our colonies, in which we shall have the mortification of having to admit that we are altogether in the wrong. [Hear, hear.] I appeal, therefore, to the House of Commons to affirm the proposition contained in the motion of my honorable friend, that the instructions given by the Duke of Newcastle to Governor Wodehouse, which remain still unrevoked, are at variance with the principles of international law. [Loud cheers.]

The house then divided and the numbers were :

For the amendment.....	185
Against.....	219

Majority against the amendment..... 34

The result was received with cheers.

Mr. Seward to Mr. Adams.

[Extracts.]

No. 930.]

DEPARTMENT OF STATE,

Washington, April 30, 1864.

SIR: I have now received from Mr. Mellen, United States consul at Mauritius, dispatches which bring the narrative of proceedings in relation to the cargo of the *Sea Bird* down to the fourth day of March last. I am thus enabled to comply with the request for instructions concerning that case which was made by you in your No. 653, dated April 8.

I have no doubt that the case is one in which the owners have a right to indemnity for the sale of their property in violation of law, at the Cape of Good Hope, and for the reception of it at Mauritius.

You will consider yourself authorized to present the claim whenever you shall think that it can be submitted without aggravating existing embarrassments.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

C. F. ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 931.]

DEPARTMENT OF STATE,

Washington, May 3, 1864.

SIR: The coming European steamer of the 16th of April has been announced at Halifax, but any despatches she brings cannot reach the department until after the closing of the outgoing mail.

There has been a high excitement in the money market, producing, of course, some uneasiness in regard to the fiscal condition of the government. This uneasiness has compelled Congress to increase customs by fifty per cent., and it is stimulating that body to enact, as speedily as possible, the laws necessary for augmenting the internal revenue. The country responds cheerfully and quite unanimously to these healthful measures.

Advices received yesterday from Major General Banks and General Steele are understood at the War Department as removing all grounds for apprehension for the safety of the forces under their respective commands, in Louisiana and Arkansas. It is understood here that their forces were to be put in motion again on the 28th of April last.

Advices from North Carolina inform us that the insurgents have withdrawn from that State, and are joining the main rebel army in Virginia. We also learn that the insurgent corps which had been operating against our lines in Alabama and Mississippi are now joining the main body in the vicinity of Atlanta, in Georgia.

On our side there has been a noiseless but effective gathering of forces at the point, and the common expectation is that a collision may occur at any time. I hardly need say that our military authorities are satisfied with the position. We have accepted a contribution of 85,000 volunteers for one hundred days from the northwestern States, to supply garrisons, and leave the regular forces free for active operations in the field.

It is observed, with great pain, that the insurgents seem to have adopted as a principle the extermination of such of the colored troops as may fall into their hands as prisoners of war. If the anti-slavery sentiment of foreign nations has any sincerity whatever, this atrocious principle cannot fail to be earnestly condemned and execrated.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

C. F. ADAMS, Esq., &c., &c., &c.

Same to other ministers in Europe.

Mr. Seward to Mr. Adams.

No. 932.]

DEPARTMENT OF STATE,

Washington, May 3, 1864.

SIR: Your despatch of the 14th of April, No. 657, has been received. It shows that her Majesty's government have taken cognizance of the proceedings

before the magistrate of Liverpool in the case of the pirates of the *J. L. Gerrety* with a view to advise concerning the ultimate decision in the case.

I have already intimated to you that this government has quite clear convictions of its rights under the treaty. These views will be submitted without considerable delay.

I am, sir, your obedient servant,

O. F. ADAMS, Esq., &c., &c., &c.

WILLIAM H. SEWARD.

Mr. Seward to Mr. Adams.

[Extract.]

No. 938.]

DEPARTMENT OF STATE,
Washington, May 3, 1864.

SIR: Your despatch of April 14, No. 655, has been received. Your account of the proceedings in England which have resulted from the visit of General Garibaldi is very interesting.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

Mr. ADAMS, &c., &c., &c., *London.*

Mr. Seward to Mr. Adams.

No. 937.¹

DEPARTMENT OF STATE,
Washington, May 3, 1864.

SIR: I thank you very sincerely for your despatch of the 15th of April, No. 660, which contains information particularly new and interesting in regard to the proceedings which have culminated in the departure of the Archduke Maximilian from Trieste, with the intention to establish an imperial monarchy in Mexico. Every thinking observer must be fully satisfied, even without special evidence, that those events had their origin in a conspiracy of Mexicans against the independence and freedom of their own country. Nevertheless it will be fortunate for the future of Mexico, and for the cause of republican government there, if the history you have given me of the details of the conspiracy shall soon become generally known.

You have very clearly explained the motives and sentiments which have induced so many of the influential statesmen and authorities of Europe to favor the subversion of the Mexican republic. All these motives and sentiments resolve themselves into a jealousy of the advancement of the United States. Their great prosperity and progress have necessarily provoked this political antagonism. You very justly lament the pertinacity with which the American people continue their suicidal division in presence of the apparent overthrow of their influence in Mexico, but it is the same blindness of faction which led us into the civil war. Only time and events can cure it, and these we may well believe are doing their work. No appeal to the reason or to the patriotism of the insurgents is heard so long as they entertain hopes of success in their desperate enterprise. The loyal people of the United States seem to have no need for new or increased devotion to the national cause. At all events, considerations of foreign and remote dangers can scarcely be expected to gain serious

attention, when the immediate domestic perils of the conflict absorb the popular mind. I know no other way for us than to contemplate the situation calmly, do our whole duty faithfully, meet every emergency as it rises, with prudence, firmness, and force if necessary, and trust in God for a safe issue of the contest.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c. &c.

Mr. Seward to Mr. Adams.

No. 940.]

DEPARTMENT OF STATE,

Washington, May 4, 1864.

SIR: The European mails which arrived yesterday were followed by those brought by the Scotia this morning. I have now the duty of acknowledging your despatch of the 21st of April, No. 661. I thank you for your enlightened observations upon the visit of General Garibaldi in England. I am, however, under no temptation to dwell upon the incidents which attended his sojourn there, since he has already left the island, and the marks of attention which were bestowed upon him will very soon fade from the national memory of Great Britain.

I shall follow with much interest the debates of the conference upon the war between Germany and Denmark. The success of the allies at Duffel seems to render difficult any settlement that would gratify the British nation by a rescue of the Danish kingdom from the danger of dissolution.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 679.]

LEGATION OF THE UNITED STATES,

London, May 5, 1864.

SIR: The steamer Japan, latterly known as the Georgia, made her appearance in the Mersey on the evening of the 1st instant. You will probably receive such full advices of her proceedings since that time from our vigilant consul at Liverpool, that I do not deem it necessary to detail them. Thus far I have not seen my way to make it the basis of any representation or remonstrance with the government. Since Lord Russell virtually assumed the position that a fraud on neutrality, if successfully completed, is at once entitled to recognition as a legitimate transaction, I am not much disposed to waste any more discussion on it. The probabilities are that this vessel did not venture to come here without having strong reason to presume that she would not meet with any repulse. I have no doubt that her whole outfit and expedition have proved an expensive failure. An endeavor will be made to convert the sums absorbed in her to some more effective object. Possibly the Alexandra may take her place.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD, &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 680.]

LEGATION OF THE UNITED STATES,
London, May 5, 1864.

SIR: I have transmitted to Lord Russell several additional depositions of persons engaged by Mr. Rumble, for the service of the rebels. A copy of my note of the 4th instant, and of the papers, is forwarded herewith.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD, &c., &c., &c.

[Enclosures.]

1. Mr. Adams to Lord Russell, May 4, 1864.
 2. Depositions of Charles Bollen and Robert Russell.
 3. Deposition of George Thompson.
 4. Deposition of Edwin Shaw and William Hall.
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Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,
London, May 4, 1864.

MY LORD: I have the honor to submit to your consideration copies of three more depositions, still further corroborating previous evidence as to the part taken by Mr. Rumble, an officer in her Majesty's service, at Sheerness, in providing men for the service of the insurgents of the United States. I would further solicit your lordship's particular attention to that portion of the evidence relating to the efforts of Mr. Rumble to obtain, by intimidation, a retraction of the testimony heretofore given against him.

Renewing the assurances of my highest consideration, I have the honor to be, my lord, your most obedient servant,

CHARLES FRANCIS ADAMS.

The Right Hon. EARL RUSSELL, &c., &c., &c.

Depositions of Charles Bollen and Robert Russell.

We, Charles Bollen and Robert Russell, of the island of Guernsey, seamen, do hereby sincerely and solemnly swear, that on Thursday last, the 21st April, we were at Hot's coffee-house, in the highway, when a man named Miller asked us if we had a ship; we answered we had. He said, if we would come with him he would ship us on a London ship, a steamer, going to run the blockade, and that the wages would be £4 8s. a month, and £10 bounty. As the wages were nearly double what we expected to get, we agreed to go with him, and took our clothes to his house, in High street, Shadwell. On arrival there he gave us two shillings to spend for the evening. We slept there that night, and on the following day, while at dinner, Miller told us we need not take our clothes with us, as we should not want them—they would find us clothes on board the ship. On the 23d April, Saturday morning, at 3 o'clock, we were taken on board the Rainbow, Calais packet; Miller went with us, and told

us we should have a month's pay as soon as we had signed articles. We had no food, with the exception of a little piece of bread, until after we arrived at Calais. When we had got to Calais, Miller took us and four others alongside the Rappahannock. As soon as we knew what ship she was, we refused to join, and told Miller that he had deceived us—he promised us a London ship, and had brought us down to the Rappahannock confederate ship-of-war; we demanded our passage back to London. Miller said he would send us back to Dover only, and we might get to London how we liked. We were kept without food while we were at Calais, and on coming away only received a pig's foot and three small cakes. After landing in Dover we had to walk to London, and only had a small piece of bread that was given to us on the road. We never had any intimation of joining a ship-of-war, but were led to believe the ship was a steamer, going to run the blockade. Finding that we would not go in the Rappahannock, we were shut up in an office on the pier at Calais until an officer in uniform came to us, and Miller wanted us to sign articles, but we refused. The other four who went with us from London signed articles. Miller also wanted us to sign a paper for £2 10s. for passage and shipping, which we also refused.

CHARLES BOLLEN.
ROBERT RUSSELL.

Sworn by both deponents, at my office, No. 5 White Hart court, Lombard street, in the city of London, this 26th day of April, 1864, before me,

JOHN J. ANDREWS,

A London Commissioner to Administer Oaths in Chancery.

—
Deposition of George Thompson.

I, George Thompson, of Sheerness, England, engineer, do hereby truly and solemnly swear, that hearing, from a friend, an engineer was wanted for the Scylla, I went to Mr. Rumble's house on Friday, the 27th November last for the berth. I saw Mr. Rumble, in the presence of Captain Sheppard, paymaster of the 13th depot brigade, royal artillery. When Captain Sheppard had left, Mr. Rumble said, "Your name is Thompson?" I answered, "Yes, sir." Mr. Rumble then said, "I see here, by this note, you have been to sea; well, this ship is gone, and you are going as 2d engineer." I asked the wages; Mr. Rumble said, "For the second I can give twelve hundred and fifty dollars (\$1,250) a year." I asked when I was to go. Mr. Rumble said, "By-the-by, do you know of any boiler-makers?" I answered "I knew of one, if he would let me go to London for him." Mr. Rumble said, "Oh, dear, no! I want you to go away to-night or to-morrow." I inquired after the half-pay, as I wanted to know how my wife and family were to get on in my absence. Mr. Rumble said, "That will be all right; the half-pay would be paid all right." I wanted some money for clothes, and asked where I was to get it. Mr. Rumble asked me how much I wanted; I answered, "about £20." Mr. Rumble said, "The Scylla—but I don't think that is her name now—is lying at Calais, and you will not want any clothes there; the uniform is gray, and they will supply that or anything you may want, as there is plenty of cloth, and men to make them, on board." Mr. Rumble likewise told me to bring my wife down to his house, about 6 or 7 o'clock that evening, and he would settle the half-pay in her presence. In the evening, as my wife was getting ready to go to Mr. Rumble's, his messenger came, and said that I was to go to Mr. Greathead's along with him. My wife and self went with Mr. Rumble's messenger and Mr. Brampton, a fitter in the dock-yard factory, Sheerness, to Mr. Greathead's, chief engineer under Mr. Rumble, at Sheerness. Mr. Greathead asked my name; and he

said, "As Mr. Rumble is not in town at present, I want to know if you will go in this ship, the *Scylla*?" I said "Yes, provided they would come to my terms." Mr. Greathead asked me what I wanted. I said, "If you will give me £20 I will go away." Mr. Greathead answered, that he was not in a position to give £20, but he would give £10. I then said, "About the half-pay note—I suppose I can make the arrangement for that with Mr. Rumble, or the captain on board the ship?" I also said I must have more than £10, if I go away to-night. Mr. Greathead said, "I can do no more, as I am waiting for a telegraphic message from Mr. Rumble, who has gone to London—he was sent for in a great hurry this afternoon; there is time to go by the train to-night—I will go to the station with you." I said, "Well, then, I shall not go until I have seen Mr. Rumble." Mr. Greathead then said, "Very good; you can see Mr. Rumble to-morrow." I then left him.

On Saturday, 28th November, about dinner time, I went to Mr. Rumble's house and saw Mr. Rumble. He told me to come again in the evening, and to bring my wife with me, and he would settle, and see about my going away that night or on the Sunday, and also see about my wife's half-pay. In the evening I went again. Mr. Rumble said, "Well, Thompson, I suppose you are ready to go away?" I said, "Yes, sir, if you will settle about my wife's half-pay." Mr. Rumble said, "Fetch your wife in." I did so; and, in the presence of Mrs. Rumble and another female, Mr. Rumble said to my wife, "You can receive your half-pay here, at my house, and that will be better than going to London for it, and will save you unnecessary expense and trouble." I asked him when I was to go away. Mr. Rumble answered, "There is a train going in about an hour—you can go by that; but then, Thompson, as I am going to take some boiler-makers on Thursday next, it will be as well to wait until then, and all go together." I said to Mr. Rumble, "Well, sir, if I am to go, I may as well go at once." Mr. Rumble said, "Well, Thompson, you can go to-morrow, if you like; but come to my house on Monday." On Monday, the 30th November, I called at Mr. Rumble's house; he was not at home. I called again on Tuesday, 1st December; he was not at home. On Wednesday, 2d December, I called again, with the same result; and on Thursday, 3d December, I saw Mr. Rumble. Mr. Rumble said, "Oh, Thompson, I suppose you have come about going on board that ship, the *Scylla*; well, you had better call again in a few days, and I will let you know, as her tubes are in a frightful condition, and she will in all probability lie there for a month or six weeks yet, so you have time to get yourself together a little." After that night, nothing more was said to me by Mr. Rumble about joining the *Scylla* or *Rappahannock*. I went back to work in the factory.

GEORGE THOMPSON.

Sworn by the deponent, at my office, No. 5, White Hart court, Lombard street, in the city of London, this 19th day of April, 1864, before me,

JOHN J. ANDREWS,

A London Commissioner to Administer Oaths in Chancery.

—

Deposition of Edward Shaw and William Hall.

We, Edwin Shaw and William Hall, hammermen, of Sheerness, Kent, do hereby truly, solemnly, and sincerely swear, that in the early part of November last we heard that the screw-steamship *Scylla*, of London, wanted several stokers, and that all parties to be engaged were to apply to Mr. Rumble. On the 16th of November, about a quarter before ten o'clock at night, we saw Mr. Rumble, and said to him, we hear you are engaging men for the *Scylla*, of London.

Mr. Rumble said yes, and asked us to come inside. He took us into his back room, and said he knew she wanted several stokers, and asked us if we had ever been to sea. We answered no. Mr. Rumble then said the ship belonged to a friend of his, who had asked him to recommend some men for her, but he preferred men that had been to sea; he further said he knew nothing about the ship, and asked us if we knew of any men who had been to sea; he would have liked us to go had we been to sea before, but could not take upon himself to engage us then, but as we were respectable men he thought there would be no trouble to get engaged, and that we had better go on board or come to his house again on Wednesday night, the 18th of November, and perhaps the chief engineer (Mr. Ferguson) would be there. On the 18th of November we called again at Mr. Rumble's house; saw him, and asked him if he had seen the chief engineer. Mr. Rumble said he had not, as he was poorly, but expected to see him in a day or so. On Saturday, 21st of November, we went again to Mr. Rumble's with the same result. On Monday, 23d of November, we called again at Mr. Rumble's request. Mr. Rumble then said, I do not know what to do with you, men; and went and wrote a note to Mr. Ferguson, chief engineer, and gave it to us to take on board to Mr. Ferguson, and told us to go to Mr. Howe's, the Fountain Hotel, and the boat, he, Mr. Howe, had engaged would take us on board. On the 24th of November we went on board in company with William Lodge and Richard Spendiff. When we got there we asked for the chief engineer. He was not on board. We saw Mr. Ramsay, the acting master at the time, and told him we had a note from Mr. Rumble for Mr. Ferguson; and afterwards Mr. Ferguson came on board, and we gave him the note and told him Mr. Rumble had sent it. Mr. Ferguson, without reading the note, said, if Mr. Rumble sent you, get to work. We, however, wanted an understanding about the pay. Mr. Ferguson said we should have the same as the rest of the men, namely, 3s. 6d. a day and found until the ship goes away. We then wanted to know what pay we were to receive after the ship left. Mr. Ferguson then said, Mr. Rumble told you, has he not? We answered, no. Mr. Ferguson said, I don't know, then; but if you intend to go in the ship get to work on the boilers at once; if not, clear out. We went up on the deck. After waiting some time there Mr. Rumble and Mr. Greathead came on board. Mr. Rumble came up to us and asked if we had seen Mr. Ferguson, and what he said. We told him, and Mr. Rumble said we had better wait a little while, as the owner would be on board soon, and then the wages would be settled. After waiting some time longer Mr. Pearson came on board. Mr. Rumble introduced Mr. Pearson to us, as the owner, and he said to Mr. Pearson these are the three stokers (meaning us and William Lodge) that I have got for you, and I have nothing to do with any besides these three men. One has been to sea before; the other two have not. They are respectable men; that is the reason I recommend them. The captain, Mr. Ramsay, then asked us what wages we wanted. After a little conversation, we wanted £7 a month, and £5 was all that was offered. We walked away, and Mr. Rumble, who had been talking with Mr. Ramsay and Pearson, came and said that Mr. Pearson would give £6 a month, and he thought that was very good pay. We agreed to that. Mr. Rumble said there would be other privileges and ways of making money besides our good pay. We then asked about our half-pay, and we were told we could leave half-pay behind, and that the ship was going on a trial trip and would be back in a day or two. We however, wanted to engage at once. Mr. Rumble said that would be better still. We asked what clothes would be required on board the ship, and was told that a change was sufficient, as there would be plenty of clothes on board. We went in to the captain and received £6 each. Mr. Rumble said that they were to give Lodge £7 10s., as he belonged to them; was a leading stoker, and had been to sea. Mr. Rumble then took our directions down, and said we might

rely upon him; he would see our half-pay was settled. We then went down into the fore-castle, and told the other men what we had received. After a little disturbance there, and finding that the rest were only engaged for fourteen days, we refused to go, and gave the money back and got on shore as soon as possible. Just before Mr. Rumble's examination at Sittingbourne, Mr. John Brampton, an engineer in the dock-yard steam factory, came to us in the shop and said it was reported about that we had been engaged by Mr. Rumble to work on board the Rappahannock, and he advised us to write a letter to Mr. Rumble contradicting it, or we should very likely get the sack. Mr. Brampton then dictated a letter in pencil as to what we had better say. Appearer Shaw wrote the note, and appearer Hall signed it. This note was altogether false, but we were afraid that we should be discharged if we refused, and hints were thrown out about how the boiler-makers had been served. After the letters were sent we went to Mr. Rumble's house with George Thompson at Mr. Rumble's request. When we arrived there we were called up into the parlor one by one. Mr. Rumble, Mr. Parks, and another gentleman were present. Mr. Rumble asked whether we had written the letters he held in his hand. We answered we had. He then said, you here say that I did not engage you, or assisted to engage you; the captain was the only man that engaged you; this you assent in the presence of these two witnesses. Fearing what would be the result if we denied it, we each answered yes, and left the room. Mr. Rumble afterwards asked us down stairs to take some ale, which we did. We knew that Mr. Rumble had engaged us, and that we should stand a very poor chance if we set ourselves in opposition to him, so did as he wished and denied it in the letter. A man named Henry Pearson Wilson, but that he went by the name of Jackson, at Sheerness, representing himself as a detective, met us at Lodge's house on the 3d of March last, and showed us a letter written by Lodge, and he said how much better that read than the one we had sent. He afterwards offered to write one for each of us, copied from the one he had of Lodge's, and that he would see us the next night about it. On the next night, the 4th of March, we saw him again, and he read the note he had written, and on the following night, the 5th of March, he brought one for each, and asked us to sign, which we did; and as he was a detective we were afraid that if we did not comply it would be all the worse for us.

EDWARD SHAW.

WILLIAM HALL.

Sworn by both the deponents at my office, No. 37 Nicholas lane, in the city of London, this the 22d day of April, 1864, before me,

JOHN CANTE GANT,

A London Commissioner to Administer Oaths in Chancery.

Mr. Seward to Mr. Adams.

No. 941.]

DEPARTMENT OF STATE,
Washington, May 7, 1864.

SIR: Your despatch, No. 658, relative to the alleged violation of the British foreign enlistment act by Captain Winslow, of the Kearsarge, having been submitted to the Secretary of the Navy, this department is informed by him, in a letter of yesterday, that it would not comport with the interests of the service to order that vessel home at present, with a view to a further formal investigation of the charge, which the British government seems to expect. Upon her first return to the United States, however, the inquiry referred to will be directed, should such then be the wish of her Britannic Majesty's government.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

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Mr. Seward to Mr. Adams.

No. 942.]

DEPARTMENT OF STATE,
Washington, May 9, 1864.

SIR: Successive reports leave us no longer grounds for doubting that the combined land and naval expedition against Shreveport has failed, not without very serious sacrifices of men and material, although, we yet hope, without the loss of any of the cardinal strategic positions, and without demoralization of the forces in Arkansas and Louisiana. Major General Canby has been despatched to the field to do what may be found necessary for the safety of the cause west of the Mississippi.

Some unimportant incidents have occurred on and near the banks of that river, but all is believed to be well in that quarter.

During the last week there has been a general advance of our forces against the insurgents on the long line which extends from Chattanooga to the Potomac, and this movement is yet in progress. No accurate or full accounts of it have reached the government, and the partial statements which you will read in the journals of this date, Monday, May 9, are not in all respects reliable. Possibly the telegraph will enable the press at Boston to give, before the departure of the mails, more definitive information than has been hitherto received. What has happened, so far as is known to the government, is, that on Wednesday morning, the 4th instant, the army of the Potomac, numbering about 100,000, crossed the Rapidan at three fords, and advanced to a line stretching through the Wilderness from Germania ford to Chancellorsville. The several corps had not fully completed their line of battle on Thursday morning, when they were vigorously assailed between the left and centre. A severe but indecisive battle occurred. It was renewed on Friday; a reserve force of 30,000 men, under Major General Burnside, reached the field and was engaged at noon. The entire insurgent army, under Lee, Hill and Longstreet, was encountered in a conflict which lasted from morning until night, with vicissitudes, several times, so unfortunate for our forces as to excite serious apprehension, but ending in the withdrawal of the enemy from the attack, leaving the army of the Potomac in possession of its ground. The nature of the field forbade the use of artillery. Our losses are reported at twelve thousand; the enemy's not mentioned. I am disposed to think it was one of the most severe and critical battles of the whole war. There was skirmishing on Saturday, and bearers of despatches report that they heard heavy cannonading yesterday. We have accounts directly from the field written on Saturday evening and yesterday, Sunday morning, but they are not official. They state that our army still hold their position, and that it is understood there that the enemy are retiring, as if satisfied that they cannot longer resist our advance.

General Sigel has been advancing up the valley of the Shenandoah, and is in position, if required, to cross the mountains and join the army of the Potomac.

General Butler has landed at a point on the James river just above the mouth of the Appomattox, thirty miles below Richmond and ten miles above Petersburg. He has broken up a portion of the railroad which connects those two places, but not without some fighting. General Sherman advanced on the 4th with a large army from Chattanooga. Advices coming directly from him on Saturday, at four o'clock, say that he was then in Tunnell Hill, with the enemy before him at Buzzard's Roost Point, above Dalton, and that McPherson, with an auxiliary force, was operating against the connexion between Atlanta and Dalton, by movements to Villanow, through Resaca.

What we do not hear is perhaps more encouraging than the information which actually reaches us. Neither General Grant nor General Butler, nor

General Sherman, makes the least sign of discouragement or apprehension, or demands re-enforcement, but they leave us to infer that they are able, and are determined to persevere in the campaign as at first designed.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Seward to Mr. Adams.

No. 943]

DEPARTMENT OF STATE,
Washington, May 9, 1864.

SIR: I have the honor to acknowledge the receipt of your despatches of the 21st ultimo, Nos. 662 to 665 inclusive; also those of the 22d, Nos. 666 to 669; and they are approved.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

C. F. ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward

[Extracts.]

No. 683]

LEGATION OF THE UNITED STATES,
London, May 12, 1864.

SIR: Since the date of my last, despatches from the department have been received, numbered 915, 916, 918, 921 to 923, inclusive. Nos. 917, 919, and 920 failed to come to hand. I have also to acknowledge the reception, at an earlier date, of a copy of the National Almanac for 1864.

Whilst upon this subject I may as well mention the fact of the recognition, under an application made as directed in your No. 758, of the 7th of November last, of Messrs. Hoets, Eager and Cato, and the rejection of Mr. J. C. Hess, for the reason given in the note of Lord Russell to me of the 7th instant, a copy of which is transmitted. The certificates of the gentlemen recognized have been transmitted, as requested, to Mr. Graham, at Cape Town. That of Mr. Hess is herewith returned.

At the same time I seize the opportunity to return the certificates enclosed with your No. 92, of September 18, 1861, No. 134, of November 27, 1861, No. 135, of 30th of November, 1861, and No. 139, of 5th of December, 1861, of Messrs. J. C. Clark, Franklin Myers, Erastus Hill, Edward Fennessy, John W. Stoakes, Joel Harris, and John D. Irvin, designated as consular agents in Canada, but whom the British government has definitely declined to recognize. There is also another certificate of Daniel Ferguson, which has never been acted upon, the place for which he was destined not having been sufficiently defined. It was sent to this legation with your despatch No. 458, of the 23d January, 1863. The report upon it, contained in my No. 431, of the 18th of June, 1863, does not appear even to have been noticed. Under these circumstances I venture to add this one to the others.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

Earl Russell to Mr. Adams.

FOREIGN OFFICE, May 7, 1864.

SIR: With reference to my note of the 7th of December last, I have the honor to state to you that I have been informed by the secretary of state for the colonies, that the governor of the Cape of Good Hope has recognized Mr. Hoets, Mr. Eager, and Mr. Oato, respectively, as consular agents for the United States at Simon's Bay, Mossel Bay, and Port Natal, but that he has abstained from recognizing Mr. J. C. Hess, who has lately assigned his estate to his creditors, as United States consular agent at Port Elizabeth.

I have the honor to return herewith the certificates of these gentlemen's appointment, which were enclosed in your letter of the 4th of December.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 684.]

LEGATION OF THE UNITED STATES,

London, May 12, 1864.

SIR: In consequence of a representation made by Mr. Bravay, the ostensible claimant of the iron-clad rams, that he is now too busy in obtaining another election to the French Chambers to attend to this matter, the trial fixed for the 27th instant has been postponed to the 6th of June.

I received notice this morning by telegram from Mr. Fox, the consul at Plymouth, that some of the crew of the ship *Avon*, which was destroyed by the *Florida* on the 30th of March, have been landed there. The morning newspapers report the *Florida* to have arrived at St. Nazaire, in France.

There appears to be some attempt going on here to concentrate whatever naval force may be gathered by the rebels, for objects which I do not quite penetrate. Officers are reported to me as continually coming over in the steamers, whilst I learn that efforts are steadily continued at Liverpool and here to add to the inducements to seamen to enlist. It is possible that the rebel agents count upon getting one or more of the four steamers which are in process of construction for them in France; and perhaps upon the release of the *Rappahannock*, though that event seems less likely of the two. However this may be, I feel it my duty to call the attention of the government to the fact that there is but one war steamer of the United States anywhere in these waters. Accident or contrivance might place her in a situation which would not reflect credit on the foresight of the Navy Department. The *Prince de Joinville*, who called on me the other day with a letter to you, which I had the honor to forward by the last steamer, made some remarks on the effect of the presence of our sailing ships in European harbors in a perfectly friendly spirit, that were not without their weight in my mind. I have a fear that these vessels entail a heavy burden of useless expense, and retain in utter inactivity a considerable number of the best class of our useful seamen. It would be quite as well for the country if they were entirely withdrawn. One steamer like the *Kearsarge* has more influence upon the opinion of nautical men than all the obsolete frigates remaining in the world would, put together. Three or four such, properly distributed, with good officers, would materially check the tendency to serve on board of dubious rebel ships.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

Mr. Adams to Mr. Seward.

No. 685.]

LEGATION OF THE UNITED STATES,
London, May 12, 1864.

SIR: I transmit herewith a copy of the London Times of the 10th instant, containing a report of the proceedings of the Court of Queen's Bench on the application for a writ of *habeas corpus* on behalf of the pirates in the case of the Joseph L. Gerrity. It is not unlikely that you may receive another from a special reporter engaged by Mr. Dudley, as he intimated to me his intention to employ one.

The questions involved in this case are not without difficulty, and the decision upon them, whatever it may be, must have an important bearing on the efficacy of the provision of the extradition treaty hereafter.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

Mr. Adams to Mr. Seward.

No. 686.]

LEGATION OF THE UNITED STATES.
London, May 12, 1864.

SIR: Lord Russell has answered my note of the 2d instant, referred to in my despatch of last week. No. 678, by two successive replies, which indicate an extraordinary degree of interest in the subject. Copies of these three papers are now transmitted.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES.
London, May 2, 1864.

MY LORD: I have been directed to lay before you, for the information of her Majesty's government, a copy of a communication made by the members of the mixed commission at Freetown, West Africa, to the Secretary of State at Washington, respecting the prevalence of the slave trade in that country.

I pray your lordship to accept the assurance of the highest consideration, with which I have the honor to be, my lord, your most obedient servant,

CHARLES FRANCIS ADAMS.

The right Hon. EARL RUSSELL, &c., &c., &c.

Earl Russell to Mr. Adams.

FOREIGN OFFICE May 9, 1864.

SIR; I have the honor to acknowledge the receipt of your note of the 2d instant, enclosing a copy of the report of the American commissioners of the mixed commission court at Sierra Leone upon the slave trade on the west coast of Africa, and I have to request that you will convey to the government of the United States the thanks of her Majesty's government for this communication.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Earl Russell to Mr. Adams.

FOREIGN OFFICE, May 11, 1864.

SIR: Now that the governments of Great Britain and the United States are happily agreed in their determination to use every legitimate effort to put down the slave trade, I wish you would suggest to Mr. Seward that her Majesty's government thinks it would be very useful if the two governments would mutually communicate to each other every incident of importance which may occur, and every measure that may seem to either of the two governments to tend to the suppression of this detestable traffic.

I have read with great interest the report of the United States commissioner and judge at Sierra Leone, and shall be happy to consider how the measures therein pointed out can best be carried into effect.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 687.]

LEGATION OF THE UNITED STATES,
London, May 13, 1864.

SIR: The reports made from Liverpool of the movements connected with the steamer Georgia have been of so singular a character, and the government here had suffered them to go on with an appearance of such utter indifference, that on Monday last I made up my mind to address a note to Lord Russell, a copy of which is herewith transmitted. Yesterday I received from his lordship the usual form of acknowledgment, a copy of which is also sent.

Mr. Thomas Baring last week gave notice in the House of Commons of a motion on the subject of this vessel, which is fixed to come up this evening. It is possible that it may lead to a debate of some interest. I find more hope is entertained in some quarters of an effect from it, than I, from my point of observation, see any reason to indulge. The fact is, nevertheless, undeniable, that whilst the threatening aspect of affairs on the continent shall continue, the mercantile interests will entertain some scruples of distrust of the wisdom of the policy that has been pursued toward us on the ocean.

Should any important discussion ensue I shall transmit a report of it by the steamer via Queenstown, in the usual course of the mail.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon, WILLIAM H. SEWARD,
Secretary of State, Washington, D. C.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,
London, May 9, 1864.

MY LORD: Information has been received at this legation of the arrival at Liverpool, in the night of 1st of May, of the steamer formerly known as the

Japan. This is the same vessel which, whilst registered and held in the name of Thomas Bold, a British subject, residing at Liverpool, was armed and equipped from this kingdom and proceeded to depredate upon the commerce of the United States by burning and destroying several merchant ships. I had the honor to call your lordship's attention to this subject in my note of the 7th July, 1863.

It now appears that this vessel, having assumed the name of the Georgia and the character of an armed ship of the insurgents of the United States, has returned to Great Britain, at Liverpool. In what character she has been received I have not yet been informed. I learn that she is about to remain for an indefinite period, the men having been discharged. I scarcely need to suggest to your lordship that it has become a matter of interest to my government to learn whether this vessel assumes the right to remain in virtue of her former character, or, if received in her later one, why she is permitted to overstay the period of time specified by the terms of her Majesty's proclamation. As she appears to have come directly from a port on the coast of France, this apparent intention to lay up would seem to be the more extraordinary.

I cannot but infer, from the course previously adopted towards the armed vessels of the United States, that any such proceeding, if taken by one of them, would have been attended with an early request from your lordship to myself for an explanation. As some time has now elapsed since the arrival of this vessel without the appearance of the smallest interruption of her operations, I have felt it my duty, in advance of the possibility of receiving instructions from my government, not to omit to make this representation on its behalf.

I pray your lordship to accept the assurances of the highest consideration with which I have the honor to be, my lord, your most obedient servant,

CHARLES FRANCIS ADAMS.

The Right Hon. EARL RUSSELL, &c., &c., &c.

Earl Russell to Mr. Adams.

FOREIGN OFFICE, May 10, 1864.

SIR: I have the honor to acknowledge the receipt of your letter of the 9th instant, calling my attention to the arrival of the steamer Georgia at Liverpool, and to state to you that this matter shall be duly considered by her Majesty's government.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

RUSSELL.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

Mr. Adams to Mr. Seward.

No. 688.]

LEGATION OF THE UNITED STATES,
London, May 13, 1864.

SIR: I have the honor to transmit copies of four sets of parliamentary papers recently published in connexion with the affairs of the United States, (Nos. 11, 12, 13, and 14.)

I have the honor to be, sir, your obedient servant,

CHARLES FRANCES ADAMS.

Hon. WILLIAM H. SEWARD, &c., &c., &c.

Return of claims of British subjects against the United States government from the commencement of the civil war to the 31st of March, 1864.

Name.	By whom reported.	Date.	Number of despatches and letters to and from foreign office.	Ground of claim.	How disposed of.
1. Messrs. E. Byrne & Co.	Claimants.....	1861. June 3	53	Vessel Monmouth when on a voyage to Charleston, with alternative destination to Savannah, stopped by United States cruiser Niagara and warned off the whole southern coast on 12th of May, at which date the blockade is stated to have been incomplete.	Compensation refused; but the United States government have proposed to enter into a convention to submit this and similar cases to a mixed commission. Consideration of this proposal deferred.
2. M. J. Wilson	Claimant	June 4	13	Claim on account of Illinois, prevented from entering Charleston on 12th May.	Do.
3. Messrs. Gerard & Armstrong.	Claimants.....	June 7	14	Susan G. Owens warned off southern coast by United States ship Niagara, and indorsement made on the register.	Informed, under advice of law officers, that the facts stated would not justify interference.
4. Messrs. J. L. Phipps & Co.	Lord Lyons.....	June 8	3	Part owners of cargo in Winifred of Virginia, captured off Cape Henry.	Cargo condemned, but Messrs. Phipps's property restored on appeal.
5. Messrs. Gilliat & Co..	Claimants.....	June 11	8	Tobacco seized on board Hiawatha, and Crenshaw captured for breach of blockade.	Informed must apply to prize court.
6. W. H. Ross.....	Claimant	June 11	20	Injury to property by United States troops.	Informed, under advice of law officers, that her Majesty's government cannot interfere officially, but Lord Lyons would use his good offices.
7. Messrs. Miller & Moorman.	Lord Lyons.....	June 13	67	Capture of Hiawatha.....	Condemned. Sentences confirmed on appeal. Representation addressed to United States government on special circumstances of the case.
8. Messrs. Dalgett & Co.					

9. Messrs. Gilliat & Co. 10. Messrs. Watkins & Leigh. 11. Messrs. Edwards & Parbury. 12. V. O'B. O'Connor	Claimant	June 24	30	1. Tobacco seized in Hiawatha 2. Tobacco lying at Richmond, which he was prevented from exporting by the blockade. 3. Queen of England similarly detained at Richmond.	1. Tobacco restored. 2. Informed, under advice of law officers, that her Majesty's government could not interfere. 3. Ditto.
13. Not reported. 14. P. M. Quillan 15. Messrs. Phipps & Co.	Lord Lyons do Consul Lonsada	July 1 July 1 July 22	1 9 3	Capture of Tropic Wind Imprisonment Part owners of cargo of captured vessel Amy Warwick.	Released by prize court. Released without compensation Messrs. Phipps's share restored by prize court.
16. Rostrom, Dalton & Co. 17. H. Haynes	Consul Archibald Claimant	July 23 July 24	2 5	Owners of cargo captured in American vessel Forrest King. Notice of blockade endorsed on register of Roscoe by U. S. ship Powhatan.	Cargo released by prize court. Refused to interfere, under advice of law officers.
18. Not reported. 19. J. C. Fitzpatrick 20. R. Mure	Lord Lyons do do	July 39 Aug. 1 Aug. 16	5 5 5	Capture of Herald Imprisonment Arrested when in charge of a bag of despatches from Consul Bunch.	Condemned. Released without compensation. Lord Lyons did not interfere, as Mr. Mure had been naturalized as an American citizen. He was released on the 18th of October. Correspondence laid before Parliament.
21. J. G. Robinson	do	Aug. 17	5	Detention of his yacht Gipsy, of New Orleans, by blockading squadron.	Vessel released after a few hours' detention on the crew making a declaration of neutrality.
22. C. Gravelly 22a. D. Evans.	do	Aug. 19	9	Capture of Sarah Starr	Condemned as enemy's property. Refused to interfere, parties concerned being domiciled in southern States.
23. J. Gray	Mr. Lindsay, M. P.	Aug. 28	27	Seizure and detention of the Perthshire	1,000 dollars voted by Congress as compensation.
24. J. D. Merriees	Lord Lyons	Aug. 26	9	William Arthur seized at Portland as enemy's property.	Vessel condemned. Refused to interfere. claimant having been domiciled in southern States.
25. - Clement	do	Aug. 26	1	Anna seized for alleged intention to violate coasting trade law.	Result not reported.
26. H. A. McLeod	do	Aug. 29	5	Capture of Prince Leopold	Condemned. Sentence confirmed on appeal.

Return of claims of British subjects against the United States government, &c.—Continued.

Name.	By whom reported.	Date.	Number of despatches and letters to and from foreign office.	Ground of claim.	How disposed of.
27. H. Horton.....	Lord Lyons.....	1861. Aug. 29	14	Capture of Adelsø.....	Condemned. Refused to interfere pending appeal.
28. W. Patrick.....	do.....	Sept. 5	6	Imprisonment.....	As the United States government defended the necessity for such arrests, Lord Lyons was instructed not to prefer any claims at that time. Correspondence laid before Parliament.
29. J. C. Rahming.....	do.....	Sept. 5	5	do.....	Do.
30. Messrs. Laurie & Co.....	Claimants.....	Sept. 16	6	Part owners of cargo of American vessel Crenshaw.....	Condemned. Sentence confirmed on appeal.
31. Messrs. Graveley & Co.....	Lord Lyons.....	Sept. 23	11	Capture of Aigburth.....	Condemned. Sentence confirmed on appeal.
32. W. Simmes.....	do.....	Sept. 23	13	Seamen captured in H. Middleton and imprisoned in irons in Fort Lafayette.	Compensation refused, and as it appeared that the H. Middleton was a southern vessel Lord Lyons was directed not to repeat the claim.
33. R. Reval. 34. W. Williams. 35. J. Clifton. 36. D. J. Walsh.....	Lord Lyons.....	Sept. 23	2	Ill treatment by police at Baltimore in consequence of his wearing a likeness of General Beauregard attached to his watch-chain.	Case represented to United States government. Result not reported.
37. Messrs. Whitworth & Co.	Claimants.....	Sept. 26	27	Boyno warned off the whole southern coast at a time when the blockade is stated not to have been completed.	Compensation refused.
38. W. O'Keefe.....	Lord Lyons.....	Sept. 28	7	Arrest at Baltimore, and imprisonment.	Released on Consul General's representation.

39. T. Daily	do. ....	.....	.....	.....	do.	Released on Consul Hernal's representation. Right to British protection disputed.
40. — O'Connor	do. ....	.....	.....	.....	Do.	Released.
41. D. Kelly	do. ....	.....	.....	.....	do.	Released. Right to British protection disputed.
42. P. Crohan	do. ....	.....	.....	.....	do.	No claim made for compensation in any of these cases.
43. W. Folker	Consul Kortright	Sept. 2	.....	2	Capture of Herald	Condemned.
44. J. Lequire	Lord Lyons	Oct.	.....	4	Imprisonment on a charge of being on his way to join the southern army; a uniform being found in his baggage. Susan warned off Hampton Roads by blockading squadron.	Released after investigation of the case.
45. Messrs. L. E. and G. Piers	Colonial Office	Oct. 15	.....	.....	.....	No case for interference, as it was not alleged that the blockade was ineffective.
46. J. Spinney	Consul Archibald	Oct. 1	.....	3	Capture of Argonaut	Vessel and cargo released by prize court.
47. F. N. Ruggles	W. Cassell	Oct. 2	.....	4	Imprisonment	Refused to interfere; not entitled to British protection, his father having been naturalized, and he himself having exercised the rights of citizenship.
48. J. Hoy .....	.....	.....	.....	.....	do.	No claim made on United States government, as he was released and did not apply for anything further.
49. W. B. Forwood	J. Forwood	Oct. 12	.....	11	.....	Condemned. Appeal pending.
50. N. K. Clements	Lord Lyons	Oct. 12	.....	5	Capture of Revere	Condemned. Sentence reversed on appeal. Further appeal of captors to the Supreme Court pending.
51. Messrs. Gerard & Armstrong	do.	Oct. 17	.....	33	Alliance and Gondar captured in the port of Beaufort, application to leave the port having been previously refused. Separate claim on account of Alliance having been warned off Charleston. Napier and Robert Bruce refused egress from the port of Wilmington by blockading squadron. Subsequently captured.	Both vessels condemned.
52. Not reported	do.	Oct. 21	.....	3	.....	Release promised. Result not reported. Had taken an oath renouncing his allegiance as a British subject. Lord Lyons instructed to represent the case to the United States government. Result not reported.
53. A. Williamson	do.	Oct. 1	.....	2	Imprisonment	
54. J. C. Stovin	do.	Oct. 26	.....	15	Imprisonment. Loss of property	

Return of claims of British subjects against the United States government, &c.—Continued.

Name.	By whom reported.	Date.	No of despatches and letters to and from foreign office.	Ground of claim.	How disposed of.
55. J. Slaughteright.....	Lord Lyons	1861. Nov. 7	6	Capture of Louisa Agnes	Condemned.
56. J. A. Moren.					
57. R. Nickelson.	do.....	Nov. 9	5	Imprisonment	Indictment for conspiracy. Indictment dropped at Lord Lyons's request.
58. W. Gilchrist.....	do.....	Nov. 14	43	do.....	Released on parole. Compensation refused. Correspondence continuing.
59. J. G. Shaver	do.....	Nov. 18	1	do.....	Inquiry promised. Result not reported.
60. G. Shannon	do.....	Nov. 18	1	do.....	No claim made.
61. R. G. Jordan.....	do.....	Nov. 18	1	do.....	Do.
62. W. W. Williams.....	do.....	Nov. 18	1	do.....	Do.
63. M. Riley	do.....	Nov. 18	1	do.....	Result not reported. No claim made for compensation.
64. J. C. Brain.....	do.....	Nov. 18	8	do.....	Released.
65. E. Wilmot.....	do.....	Nov. 18	2	do.....	Released on bail.
66. J. F. Parr.....	do.....	Nov. 18	1	do.....	Did not interfere, as he had been naturalized.
67. F. Maury	do.....	Nov. 18	7	Imprisonment. Money taken from him..	Released. Refused to interfere further, under advice of law officers; Messrs. Maury having been concerned in carrying letters to and from the south.
68. R. Maury.					Compensation not applied for, the detention arising in consequence of the regulations as to passports.
69. Ensign F. Brown	do.....	Nov. 18	5	Detention at New York.....	Released.
70. W. H. Aymer	do.....	Nov. 22	1	Imprisonment	Released.

72. J. Mooney.	Dec. 31	do.	oners of war. Compelled to sign a declaration not to repeat the offence of running the blockade.	
73. J. H. McSlaney.	Dec. 31	do.		
74. Not reported.	1862.	do.		
75. G. Campbell.	Jan. 2	do.	Capture of Adeline.	2
76. — Wetter.		do.	Capture of James Campbell.	5
77. — Rennan.		do.	Imprisonment at Key West. Captured in Victoria.	5
78. — Talbot.		do.		
79. Not reported.	Jan. 2	do.	Capture of Victoria.	3
80. G. Campbell.	Jan. 11	Consul Archibald.	Capture of Jane Campbell.	4
81. Not reported.	Jan. 11	do.	Capture of E. H. Bernard.	3
82. J. Roberts.	Jan. 11	do.	Capture of W. H. Northrup.	4
83. Mary Hutchinson.	Jan. 11	do.	Capture of D. F. Keeling.	2
84. W. H. Aymer.	Jan. 11	Consul Archibald.	Capture of J. H. Toone.	2
85. Do.		do.	Capture of Ezeldar.	2
86. Messrs. Fernie & Son.	Jan. 11	Claimants.	Capture of Admiral.	6
87. Captain Fisher.	Jan. 16	Colonial Office.	Telegraph captured and taken to Key West, and then released.	19
88. W. H. Fisher.	Jan. 21	do.	Ill-treatment at the time of the seizure of the Telegraph.	
89. W. H. Fisher.		do.	Capture of Empress.	27
90. Messrs. Z. Pearson & Co.	Jan. 22	Board of Trade.	Owners of cargo in Empress.	
91. Messrs. Moon & Co.		do.	Capture of M. S. Perry or Salvor.	
92. George Martin.	Jan. 31	Lord Lyons.	Imprisonment.	5
93. Not reported.	Feb. 5	do.		3
94. J. P. Nolan.		do.		
95. Messrs. J. and W. Batteraby.	Feb. 6	Claimants.	Capture of the Cheeshire.	12
96. R. M. Carson.	Feb. 15	Claimant.	Capture of Ariel.	13
97. Messrs. Dexter.	Feb. 15	Lord Lyons.	Capture of Andrelta or J. V. Wilder.	16
98. Francisco Capella.				

cruiser disapproved by United States government. Seamen set at liberty, and released from their declaration. Papers laid before Parliament. Vessel and cargo released.

Released.

Condemned. Released.

Condemned.

Do.

Released by prize court.

Condemned. Sentence confirmed on appeal.

Do.

Referred to prize court. Condemned.

Compensation refused.

Do.

Condemned. Decree reversed on appeal.

Further appeal by captors to supreme court pending; cargo restored to others on payment of costs.

Condemned.

Refused to interfere; Mr. Nolan having taken part in political discussions at St. Louis when the town was under martial law.

Vessel condemned, but restored on bonds being given for her value. Appeal against condemnation pending.

Condemned.

Refused to interfere; the vessel having been formerly a southern one, and not sufficient evidence being given of her bona fide sale to Messrs. Dexter.

Return of claims of British subjects against the United States government, &c.—Continued.

Name.	By whom reported.	Date.	Number of despatches and letters to and from foreign office.	Ground of claim.	How disposed of.
99. Messrs. Isaac Campbell & Co.	Claimant	1862. Mar. 6	20	Capture of Stephen Hart	Refused to interfere, under advice of law officers. Condemned.
100. J. M. Harris.	.....	.....	.....	.....	.....
101. W. G. Chapman	Consul Archibald	Mar. 11	2	Capture of Prince Alfred	Condemned.
102. S. J. Fritzinger	do.	Mar. 11	2	Capture of Fanny Lee	Do.
103. E. Gardner	do.	Mar. 11	2	Capture of Havelock	Do.
104. H. N. Sawyer	do.	Mar. 11	2	Capture of Island Belle	Do.
105. Messrs. Bailey & Leatham.	Claimants	Mar. 15	103	Capture of the Labuan	Case tried in prize court. Vessel released. Compensation promised.
106. Messrs. de Jersey & Co.	.....	.....	.....	.....	.....
107. Messrs. S. Lefevre & Co.	.....	.....	.....	.....	.....
108. T. Palmer	Consul Archibald	Mar. 22	4	Capture of the Mars	Condemned.
109. Messrs. Prats & Oliveros.	do.	Mar. 22	4	Capture of the Major Barbour	Do.
110. J. Elford	Lord Lyons	Apr. 21	5	Southport fired at, detained, and searched	Explanation received.
111. J. Brookman	do.	Apr. 26	7	Amazon detained and searched	Do.
112. R. Maury	do.	May 1	1	Further arrest and imprisonment	Lord Lyons refused to interfere further than by mentioning the case to Mr. Seward.
113. E. Haigh	Consul Kortright	May 6	29	Capture of Bermuda	Condemned. Appeal not reported.
114. N. T. Butterfield	.....	.....	.....	.....	.....
115. Messrs. H. Adlery & Co.	.....	.....	.....	.....	.....

116. Messrs. Crow, Wylie, & Co.	May 7	21	Timber at Pensacola which they desire to be permitted to export. Alleged misappropriation of a portion of it.	Permission refused. Further representation made to United States government. Answer not yet received.
117. J. A. Marsh.	May 22	5	Capture of Delta.	Condemned. Sentence confirmed on appeal.
118. C. H. Adams.	May 23	15	Capture of Circassian	Condemned. Appeal pending.
119. Messrs. Z. C. Pearson	May 28	12	Wages due to her deceased son, late a seaman in the United States navy.	Money paid.
120. E. Hunter.	June 7	3	Proceedings of military authorities in Kentucky.	Referred to Lord Lyons.
121. Mrs. Scofield	June 2	4	Capture of Lion	Condemned.
122. J. W. Cole	June 2	4	Capture of Florida	Condemned. Appeal pending.
123. G. F. Anderson	June 2	9	Capture of Maria	Condemned.
124. W. Maher	June 3	5	Capture of Elizabeth	Condemned. Sentence confirmed on appeal.
125. G. Redgate	June 4	10	Capture of Albert	Do.
126. W. H. Smith	June 21		Search of Kate	Refused to interfere, as the search was not stated to have been conducted in an improper manner.
127. Minet Jimenes & Co	June 9	7	Capture of Mersey	Condemned. Sentence reversed on appeal.
128. Messrs. Herques & Maseras.	June 9	14	Master and crew of Mersey imprisoned and ill-used.	Captors waived their right to further appeal on claimants giving up claim for damages.
129. Not reported	June 9			Charges against United States officials proved to be unfounded.
130. T. M. William	June 9	3	Capture of Cambria off Charleston	Condemned.
131. R. L. Sanchez, Messrs. Tatham & Co.	June 9	4	Capture of Bell	Condemned.
132. J. Roberts.	June 9	5	Capture of Patras	Condemned. Sentence confirmed on appeal.
133. Messrs. Sawyer & Menendez.	June 9			
134. W. H. Sweeting	June 9			
135. Harrison Thompson.	June 9			
136. Abraham Fisher.	June 9			
137. Samuel Russell.	June 9			
138. John Dean.	June 9			
139. John Thomas.	June 9			
140. Sylloth Bay Steam Navigation.	June 9			
141. W. R. Green	June 9			
142. Messrs. Z. C. Pearson & Co.	June 9			
143. E. Gerard,	June 9			

Return of claims of British subjects against the United States government, &c.—Continued.

Name.	By whom reported.	Date.	Number of despatches from foreign office.	Ground of claim.	How disposed of.
144. Messrs. Z.C. Pearson & Co.	Acting Consul Edwards.	1862. June 9	5	Capture of Statia.....	Condemned. Sentence confirmed on appeal.
145. E. Gerard.	do.	.....	2	Capture of Maria Theresa.....	Condemned.
146. Not reported.	Colonial office	June 11	9	Capture of Ella Worley.....	Condemned. Sentence confirmed on appeal.
147. Messrs. H. Adderley & Co.	do.	June 11	7	Detention of Time at New York.....	Vessel detained as having coal on board, in accordance with act of Congress respecting such shipments.
148.	do.	.....	3	Capture of Flash.....	Condemned.
149. J. Smith	Acting Consul Edwards.	June 12	2	Capture of British Queen and Active.....	Condemned.
150. Not reported	Consul Kortright.	June 16	1	Capture of Fair Play and Success.....	Not reported.
151. Do	do.	June 16	2	Capture of Intended, Coquette, and Providence.	Condemned.
152. Do	do.	June 16	7	A citizen of the United States who was acting as British vice-consul at Fredericksburg. Arrest and destruction of a quantity of flour, the property of Mr. Gemmill.	United States government made inquiry into the case, but refused redress.
153. P. Goodrick.	Mr. Stuart	June 25	8	Imprisonment and alleged forcible abduction from British territory.	Refused to interfere, was imprisoned for larceny, and did not adduce sufficient evidence as to abduction.
154. J. W. Franklin	do.	July 6	2	Memphis fired at.....	Refused to interfere. Law officers considered evidence insufficient for inter-ference.
155. J. W. Franklin	do.	July 6	2	Memphis fired at.....	Refused to interfere. Law officers considered evidence insufficient for inter-ference.
156. Messrs. Adderley & Co.	Colonial office	July 8	2	Memphis fired at.....	Refused to interfere. Law officers considered evidence insufficient for inter-ference.

157. J. Carlin	do	July 10	Cecile fired at.	Do.	Claim for compensation under the consideration of the United States government.
158. Messrs. J. & R. Martin.	Claimants	27	Destruction of York by blockading fleet off coast of North Carolina.	27	Refused to interfere; Mr. Cowan having been domiciled in United States, and exercised the rights of citizenship.
159. W. H. Cowan	Mr. Stuart	July 11	Imprisonment	2	Vessel released by prize court. Compensation refused. Papers laid before Parliament.
160. Messrs. Salter & Twining.	do	July 14	Capture of Will-o'-the-Wisp	28	Condemned. Appeal pending.
161. R. G. Bushby	Claimant	July 28	Capture of Lilla	20	United States government refused to remove restrictions. Papers laid before Parliament.
162. Messrs. Barnes & Co.	Claimants	July 29	Goods forwarded in China to New York; detained there and prevented from being shipped to Nassau without a bond being given that they should not be reshipped for blockaded ports.	25	
163. Messrs. Guthrie & Co.	do	July 30			
164. Messrs. Shorter & Co.	do	July 30			
165. Messrs. J. Thompson & Co.	Mr. Stuart	July 20	do.		
166. Messrs. Meadow & Co.	do		do.		
167. Messrs. W. Marshall	do		do.		
168. J. McLaurin	Mr. Scholefield, M. P.	Aug. 1	Imprisonment at New Orleans.	8	Released.
169. G. A. Stuart	Mr. Stuart	Aug. 3	Capture of Emilie. Alleged misconduct of officers and men of United States ship Restless.	4	Explanation received. Vessel condemned.
170. Messrs. Murphy & Twining.	Admiralty	Aug. 4	Annette detained by United States ship Rhode Island.		Explanation received from United States government.
171. Messrs. Dorrington & Forwood.	Claimants	Aug. 5	Capture of Adela	78	Law officers advised that case should be tried in prize court. Condemned. Appeal not reported.
172. J. W. Steele	Acting Consul Edwards.	Aug. 7	Capture of Tubal Cain	3	Condemned.
173. T. S. Begbie	do	Aug. 7	Capture of Memphis	3	Condemned. Sentence confirmed on appeal.
174. P. Denny.					
175. T. Andrae.					
176. J. H. Bethell	Colonial office	Aug. 18	Detention of W. H. Clear off New York, and improper conduct of revenue officer.	5	Explanation received.
177. J. B. Cramer	do	Aug. 28	Detention of goods at New York.	5	Compensation refused.
178. J. Carlin	Mr. C. Turner, M. P.	Sept. 8	Was passenger in the Memphis. Imprisonment.	15	Compensation asked for.

Return of claims of British subjects against the United States government, &c.—Continued.

Name.	By whom reported.	Date.	Number of despatches and letters to and from foreign office.	Ground of claim.	How disposed of.
179. F. Carroll	Mr. Stuart	1862. Sept. 18	5	Imprisonment	Mr. Stuart instructed to use his good offices to procure Mr. Carroll's release on his undertaking to leave the United States, or to find surety for good behavior.
180. Major Longley .....	.....do	Sept. 28	5	Arrest at Baltimore	Refused to interfere, his arrest having been caused by his entering into a discussion on the war with a United States officer.
181. Messrs. Barclay & McDowell .....	.....do	Oct. 1	5	Capture of Orion	Condemned.
182. H. Laforce	Consul Archibald	Oct. 6	17	Capture of Sunbeam	Sentence confirmed on appeal.
183. J. G. Lingham	Rev. J. Lingham	Oct. 15	4	Imprisonment at New Orleans	Released. Refused to interfere further under advice of law officers.
184. C. Cleburne	Mr. Stuart	Oct. 15	5	Imprisonment for refusing to work on the fortifications at Newport, Kentucky. Ill-usage by military at Cincinnati. Forced enlistment at Cincinnati	Inquiry made. Instructions sent by United States government for the redress of all such cases on proof of nationality being afforded.
185. J. Browne .....	.....do	Oct. 21	66	Destruction of <i>Blanche</i> by United States ship <i>Montgomery</i> , off coast of Cuba.	Compensation requested. Case still under discussion.
186. A. Hardie .....	.....do	Oct. 21	.....	Passenger in <i>Blanche</i> taken in <i>Montgomery</i> to Key West.	Do.
187. A. Methuen .....	.....do	Oct. 21	.....	Imprisonment at New Orleans	Released on parole.
188. G. Wigg .....	.....do	Oct. 21	.....	.....	.....
189. R. F. Clement .....	.....do	Oct. 21	.....	.....	.....
190. J. J. Burrows	Messrs. Rankin, Gilmore & Co.	Oct. 24	5	Imprisonment at New Orleans .....	.....

191. W. Petty.....	Colonial office.....	Oct.	25	17	Ellen; run down by United States ship Mercedita. Destruction of vessel and cargo and loss of effects.	8492. 9s. 7d. paid as compensation by the United States government.
192. J. Roberts.						
193. J. H. Roberts.						
194. S. Johnson.						
195. J. Knowles.						
196. J. R. Griffin.						
197. W. H. Griffin.						
198. E. Norwich.						
199. G. H. Edwards.						
200. H. Edwards.						
201. A. Thompson.						
202. R. Smith.						
203. N. H. Clements.....	Consul Archibald.....	Oct.	25	3	Capture of Revere.....	Condemned.
204. T. Byrne.....	J. Byrne.....	Oct.	30	12	Occupation of his house at New Orleans by United States troops.	Instructions given by the United States government that payment should be made for the use of the house. Released on parole. Do. Do.
205. Dr. Syme.....	Mr. Stuart.....	Oct.	31	5	Imprisonment at New Orleans.....	Condemned.
206. J. Decres.....	do.....	Oct.	31		do.....	Compensation asked for. Case under consideration of the United States gov- ernment.
207. M. Fallon.....	do.....	Oct.	31		do.....	Condemned.
208. Not reported.....	Consul Archibald.....	Nov.	4	3	Capture of the Robert Bruce.....	Condemned.
209. W. Sherwin.....	Messrs. J. H. Ismay & Co.	Nov.	17	27	Imprisonment.....	Condemned.
210. Messrs. Duranty & Co.	Consul Archibald.....	Nov.	18	4	Capture of Anglia.....	Do.
211. Messrs. Dorrington & Forwood.	do.....	Nov.	18	4	Capture of Scotia.....	Condemned. Sentence confirmed on ap- peal.
212. T. Sterling Begbie.....	do.....	Dec.	4	7	Capture of Ouachita.....	Condemned.
213. G. Wait.....	Lord Lyons.....	Dec.	16	3	Capture of Theresa.....	Condemned.
214. G. Wigg.....	do.....	Dec.	16	3	Capture of Isabel.....	Released by exchange. Lord Lyons in- structed not to advance any claim, as Mr. Laurent had declared himself to be a citizen of the United States.
215. A. P. Laurent.....	do.....	Dec.	16	28	Imprisonment as a United States citizen. Was master of the Isabel.	Condemned. Sentence confirmed on ap- peal. Do. Do.
216. Z. C. Pearson.....	Consul Archibald.....	Dec.	23	3	Capture of Patras.....	Condemned.
217. E. Gerard.....	do.....	Dec.	23		Capture of Settin.....	Do.
218. E. Gerard.....	do.....	Dec.	23		Capture of Nassau.....	Do.
219. Not reported.....	do.....	Dec.	23			

Statement of claims of British subjects against the United States government, &c.—Continued.

Name.	By whom reported.	Date.	Number of despatches and letters to and from foreign office.	Ground of claim.	How disposed of.
220. J. Tovell.....	Miss Tovell.....	1863. Jan. 6	6	Imprisonment.....	Lord Lyons instructed to ask for trial or release. Result not reported.
221. Messrs. J. Gibson.....	Claimants.....	Jan. 8	17	Collision between United States ship Vanderbilt and their vessel Symmetry.	£484 17s. 5d. paid as compensation.
222. Azariah Curry.....	Lord Lyons.....	Jan. 9	15	Capture of Mont Blanc when at anchor off one of the Bahama cays.	Vessel restored. Compensation promised. Correspondence continuing.
223. J. Murdenborough.....	Consul Archibald.....	Jan. 9	4	Capture of Alicia.....	Condemned. Appeal pending.
224. T. N. Crosse.....	Claimants.....	Jan. 14	5	Destruction of property at Fredericksburg.	Refused to interfere, as it did not appear how the property had been destroyed, or by which army.
225. Messrs. Adderley & Co.....	Colonial office.....	Jan. 23	5	Capture of Nonsuch.....	Condemned. Appeal pending.
226. J. W. Allen.....	Consul Archibald.....	Jan. 21	3	Capture of Comet, of which he was owner.	Condemned.
227. D. Donroun.....	do.....	Jan. 21	3	Owner of cargo of Comet.....	Do.
228. C. Brown.....	do.....	Jan. 21	2	Capture of Kate.....	Do.
229. Not reported.....	do.....	Jan. 21	2	Capture of Flying Fish.....	Do.
230. Do.....	do.....	Jan. 21	2	Capture of Carmita.....	Do.
231. Do.....	do.....	Jan. 21	2	Detention of Echo at New York to prevent intelligence being given of General Banks's expedition.	Refused to interfere. Law officers considered that it was competent for a beligerent to impose such restrictions.
232. P. A. Spearwater.....	Lord Lyons.....	Jan. 27	4	Imprisonment. Was supercargo of the Hiawatha.	Refused to interfere, as he was imprisoned for improperly gaining possession of part of the cargo and sending it to England.
233. T. Potts.....	Lieut. governor of New Brunswick, through colonial office.	Feb. 2	16		

234. Z. C. Pearson & Co.	Consul Archibald ...	Feb.	3	2	Capture of Ann ...	Condemned.
235. Messrs. Sawyer & Menendez.	do.				Capture of Annie Dees.	Do.
236. T. Lloyd.	do.				Capture of British Empire.	Do.
237. Not reported.	do.				Capture of Belle.	Do.
238. J. Eneas.	do.				Capture of Levi Rowe.	Do.
239. G. A. Stewart.	do.				Capture of Mary Stewart.	Do.
240. Not reported.	do.				Capture of Nassau.	Condemned. Sentence confirmed on appeal.
241. T. B. King.	do.				Capture of Watervitch.	Condemned.
242. Captain Wynne.	War office.	Feb.	6	4	Arrested when attempting to pass United States military lines.	Escaped.
243. J. Hughes.	Lord Lyons.	Feb.	7	4	Imprisonment at New Orleans.	Lord Lyons instructed to request moderate compensation. Result not reported.
244. J. Lawson.	do.	Feb.	10	3	Princess Royal captured off Charleston with contraband at the time of the attack on the forts.	Condemned.
245. Messrs. J. and T. Johnson.	Messrs. Lowndes, Bateson & Co.	Feb.	17	21	Capture of Pearl.	Offer made to release on payment of expenses. Correspondence continuing.
246. G. Wigg.						
247. H. Adderley & Co.						
248. W. Ryan.	Consul Archibald.	Feb.	10	2	Capture of Rising Dawn.	Condemned.
249. W. P. Hawkins.	Mr. Wyckham Martin.	Feb.	20	5	Captured in Princess Royal and imprisoned.	Released.
250. E. Garner.	do.	Feb.	23	3	Capture of Bravo.	Condemned.
251. J. B. Carver.	Colonial office.	Feb.	24	6	Capture of Eunla Tuttle.	The master regained possession of the vessel; she was, however, subsequently recaptured and condemned.
252. Messrs. W. Barter & Co.	Claimants.	Feb.	25	63	Capture of Springbok.	Condemned. Appeal pending.
253. S. Regbie.	do.	Feb.	27		do.	
254. T. M. Gervaus.	Messrs. W. Barter & Co.	March	9		do., as owner.	
255. T. Best.	Consul Archibald.	Feb.	27	2	Capture of Richard.	Condemned.
256. — Ernst.	do.	March	2	2	Capture of Minna.	do.
257. — Lewers.	Mr. C. Fortescue, M. P.	March	4	12	Loss of property.	Refused to interfere, under advice of law officers, as he was domiciled in the United States.
258. O. Fallenstein.	Consul Archibald.	March	13	3	Capture of Douro.	Condemned.
259. Chapple, Dutton & Co.	do.	March	13		do.	

Statement of claims of British subjects against the United States government, &c.—Continued.

Name.	By whom reported.	Date.	Number of despatches and letters to and from foreign office.	Ground of claim.	How disposed of.
220. J. Tovell.....	Miss Tovell.....	1863. Jan. 6	6	Imprisonment.....	Lord Lyons instructed to ask for trial or release. Result not reported.
221. Messrs. J. Gibson.....	Claimants.....	Jan. 8	17	Collision between United States ship Vanderbilt and their vessel Symmetry.	£484 17s. 5d. paid as compensation.
222. Azariah Curry.....	Lord Lyons.....	Jan. 9	15	Capture of Mont Blanc when at anchor off one of the Bahama cays.	Vessel restored. Compensation promised. Correspondence continuing.
223. J. Murdenborough.....	Consul Archibald.....	Jan. 9	4	Capture of Alicia.....	Condemned. Appeal pending.
224. T. N. Crosse.....	Claimants.....	Jan. 14	5	Destruction of property at Fredericksburg.	Refused to interfere, as it did not appear how the property had been destroyed, or by which army.
225. Messrs. Adderley & Co.....	Colonial office.....	Jan. 23	5	Capture of Nonsuch.....	Condemned. Appeal pending.
226. J. W. Allen.....	.....	.....	.....	.....	.....
227. D. Donrou.....	Consul Archibald.....	Jan. 21	3	Capture of Comet, of which he was owner.	Condemned.
228. C. Brown.....	.....	Jan. 21	3	Owner of cargo of Comet.....	Do.
229. Not reported.....	.....	Jan. 21	2	Capture of Kate.....	Do.
230. Do.....	.....	Jan. 21	2	Capture of Flying Fish.....	Do.
231. Do.....	.....	Jan. 21	2	Capture of Carmita.....	Do.
232. P. A. Spearwater.....	Lord Lyons.....	Jan. 27	4	Detention of Echo at New York to prevent intelligence being given of General Banks's expedition.	Refused to interfere. Law officers considered that it was competent for a bel- ligerent to impose such restrictions.
233. T. Potts.....	Lieut. governor of New Brunswick, through colonial office.	Feb. 2	16	Imprisonment. Was supercargo of the Hiawatha.	Refused to interfere, as he was imprisoned for improperly gaining possession of part of the cargo and sending it to Eng- land.

234. Z. C. Pearson & Co.	Consul Archibald	Feb.	3	2	Capture of Ann	Condemned.
235. Messrs. Sawyer & Menendez.	do.				Capture of Annie Dees	Do.
236. T. Lloyd	do.				Capture of British Empire	Do.
237. Not reported	do.				Capture of Belle	Do.
238. J. Enes	do.				Capture of Levi Rowe	Do.
239. G. A. Stewart	do.				Capture of Mary Stewart	Do.
240. Not reported	do.				Capture of Nassau	Condemned.
241. T. B. King	do.				Capture of Waterwitch	peal.
242. Captain Wynne	War office.	Feb.	6	8	Arrested when attempting to pass United States military lines.	Condemned.
243. J. Hughes	Lord Lyons	Feb.	7	4	Imprisonment at New Orleans.	Escaped.
244. J. Lawson	do.	Feb.	10	3	Princess Royal captured off Charleston with contraband at the time of the attack on the forts.	Lord Lyons instructed to request moderate compensation. Result not reported.
245. Messrs. J. and T. Johnson.	Messrs. Lowndes, Bateson & Co.	Feb.	17	21	Capture of Pearl	Condemned.
246. G. Wigg.	do.					Offer made to release on payment of expenses. Correspondence continuing.
247. H. Adderley & Co.	Consul Archibald	Feb.	10	2	Capture of Rising Dawn	Condemned.
248. W. Ryan	do.	Feb.	20	5	Captured in Princess Royal and imprisoned.	Released.
249. W. P. Hawkins	Mr. Wykeham Martin.	Feb.	23	3	Capture of Brave	Condemned.
250. E. Garner	Colonial office	Feb.	24	6	Capture of Emma Tuttle	The master regained possession of the vessel; she was, however, subsequently recaptured and condemned.
251. J. B. Carver	do.					Condemned. Appeal pending.
252. Messrs. W. Barter & Co.	Claimants	Feb.	25	63	Capture of Springbok	
253. S. Hegbie	do.	Feb.	27		do.	
254. T. M. Gervais	Messrs. W. Barter & Co.	March	9		do., as owner.	
255. T. Best	Consul Archibald	Feb.	27	2	Capture of Richard	Condemned.
256. — Ernst	do.	March	2	2	Capture of Minna	do.
257. — Lewers	Mr. C. Fortescue, M. P.	March	4	12	Loss of property	Refused to interfere, under advice of law officer, as he was domiciled in the United States.
258. O. Fallenstein	Consul Archibald	March	13	3	Capture of Douro	Condemned.
259. Chapple, Dutton & Co.	do.	March	13		do.	

Statement of claims of British subjects against the United States government, &c.—Continued.

Name.	By whom reported.	Date.	Number of despatches and letters to and from foreign office.	Ground of claim.	How disposed of.
260. Gustave Renaud	Consul Archibald	1863. March 14	3	Capture of Avon	Condemned.
261. Byron Bode	do	March 14 .....	.....	do .....	.....
262. J. H. Symond	do	March 14 .....	.....	do .....	.....
263. Dr. Booth	Mr. Lindsey, M. P.	March 20	12	Imprisonment at New Orleans	Released.
264. Messrs. Cox & Baker	Claimants	March 23	30	Capture of Magicienne	United States government promise to ask Congress for compensation, the amount to be fixed by arbitration. Condemned. Appeal pending.
265. J. Spence	do	March 26	109	Capture of Peterhoff .....	.....
266. J. P. Harding .....	.....	.....	.....	.....	.....
267. Messrs. Bennett & Wake .....	.....	.....	.....	.....	.....
268. G. W. Almond	Consul Archibald	March 30	2	Capture of Nicolai I.	Condemned.
269. Not reported	do	April 3	3	Capture of Atlantic	Vessel and cargo restored.
270. J. M. Luasen	do	April 3	8	Alleged forcible enlistment	Deserted.
271. A. McMillan	Mr. R. McMillan	April 3	2	Capture of Mary Jane	Condemned.
272. W. Fraser	Consul Archibald	April 9	1	Capture of Sue	Not reported.
273. Not reported	do	April 9	3	Capture of Brothers	Condemned.
274. S. J. Massinger	do	April 10	3	Capture of Surprise	Do.
275. J. Thompson	do	April 10	3	Capture of J. Williams	Condemned.
276. J. Gage	do	April 10	21	Capture of Granite City	Condemned.
277. Not reported	do	April 14	7	Imprisonment	Released.
278. G. R. Lawrence	Mrs. Lawrence	April 28	47	Capture of Dolphin	Condemned.
279. Messrs. Grazebrook & Co.	Claimants	April 13 .....	.....	.....	.....

280. Not reported.....	April 14	12	Capture of Arica.....	Do.	Compensation refused. Truth of his state-
281. A. Nicol.....	April 15	5	Injury caused to property by United States forces.		ments denied by United States authorities.
282. — Nevins.....	April 15	4	Loss from being prevented going to New Orleans in consequence of supposed intention of United States authorities there to arrest him.		Refused to interfere. Evidence insufficient.
283. R. Ranger.....	April 21	8	Imprisonment and loss of property at New Orleans.		Compensation requested from United States government. Correspondence continuing.
284. S. Redgate.....	April 21	30	Captured in Peterhoff. Alleged ill treatment in prison.		Waiting for judgment of court of appeal.
285. — Ellsworth.....	April 21	21	.....do.....	Do.	
286. R. Bowden.....	April 22	3	Captured in Peterhoff. Claim for detention and as part owner of the cargo.	Condemned.	
287. T. S. Begbie.....	April 24	3	Capture of Gertrude.....	Do.	
288. Not reported.....	April 24	3	Capture of Antelope.....	Part of cargo released; vessel and remainder condemned.	
289. W. Hadden.....	April 24	3	Capture of Agnes.....	Refused to interfere, under advice of law officers, as owners should have appealed to a superior court.	
290. Messrs. Harvey & Tucker.....	April 28	6	Capture of Pacific; subsequently released without damages.	Condemned.	
291. E. Williams.....	April 28	3	Capture of Gipsy.....	Case tried at New York. Vessel condemned.	
292. Captain G. Grindie.....	April 27	16	Capture of Antons, of which he was master. Detention on board United States ship Panascoles.		
293. Messrs. J. & T. Johnson.....	May 5	.....	Claim as owners of Antons.	Released.	
294. A. Ruberg.....	May.....	14	Imprisonment at San Francisco.....	Condemned.	
295. J. T. Bourne.....	May 1	6	Owner of St. George captured.....		
296. J. L. Finnell.....	May.....	1	Part owner of cargo of St. George.		
297. J. E. Davidson.....	May 4	.....	Capture of Anne Sophia.....	Released by admiral in command of United States squadron without going to prize court.	
298. Capt. J. Simpkins.....	May 5	5	His vessel Dream fired at by a vessel hoisting United States colors.	Inquiry promised. Result not reported.	
299. J. Murphy.....	May 18	3	Part owner of cargo of Dolphin.....	Referred to prize court. Vessel condemned.	
300. J. J. Craven.....	May 19	5	Imprisonment and banishment from Missouri for writing a political pamphlet.	Refused to interfere; the authorship of the pamphlet being proved.	

Statement of claims of British subjects against the United States government, &c.—Continued.

Name.	By whom reported.	Date.	Number of despatches from foreign office.	Ground of claim.	How disposed of.
260. Gustave Renand	Consul Archibald	1863.	3	Capture of Avon	Condemned.
261. Byron Bode	do.	March 14	.....	do. ....	.....
262. J. H. Symond	do.	March 14	.....	do. ....	.....
263. Dr. Booth	Mr. Lindsay, M. P.	March 20	12	Imprisonment at New Orleans	Released.
264. Messrs. Cox & Barker.	Claimants	March 23	30	Capture of Magicienne	United States government promise to ask Congress for compensation, the amount to be fixed by arbitration.
265. J. Spence	do.	March 26	109	Capture of Peterhoff	Condemned. Appeal pending.
266. J. P. Harding. ....	.....	.....	.....	.....	.....
267. Messrs. Bennett & Wake. ....	.....	.....	.....	.....	.....
268. G. W. Almond.	Consul Archibald	March 30	2	Capture of Nicolai I.	Condemned.
269. Not reported	do.	April 3	3	Capture of Atlantic	Vessel and cargo restored.
270. J. M. Luseen	do.	April 3	8	Alleged forcible enlistment	Deserted.
271. A. McMillan	Mr. R. McMillan	April 9	2	Capture of Mary Jane	Condemned.
272. W. Fraser	Consul Archibald	April 9	1	Capture of Sue	Not reported.
273. Not reported	do.	April 10	3	Capture of Brothers	Condemned.
274. S. J. Massinger	do.	April 10	3	Capture of Surprise	Do.
275. J. Thompson	do.	April 10	3	Capture of J. Williams	Condemned.
276. J. Gage	do.	April 10	3	Capture of Granite City	Condemned.
277. Not reported	do.	April 14	21	Imprisonment	Released.
278. G. R. Lawrence.	Mrs. Lawrence	April 28	7	Capture of Dolphin	Condemned.
279. Messrs. Grazebrook & Co.	Claimants	April 13	47	.....	.....

290. Not reported.....	April 14	Capture of Aries	12	Do.	Compensation refused. Truth of his state-
291. A. Nicol.....	April 15	Injury caused to property by United States forces.	5		ments denied by United States author-
292. — Nevins	April 15	Loss from being prevented going to New Orleans in consequence of supposed intention of United States authorities there to arrest him.	4	Refused to interfere. Evidence insuffi-	cient.
293. R. Ranger.....	April 21	Imprisonment and loss of property at New Orleans.	8	Compensation requested from United States government. Correspondence continuing.	
294. S. Redgate	April 21	Captured in Peterhoff. Alleged ill treat-	30	ment in prison.	Waiting for judgment of court of appeal
295. — Ellaworth.....	April 21	.....do.	.....	Do.	
296. R. Bowden	April 22	Captured in Peterhoff. Claim for deten-	21	tion and as part owner of the cargo.	Condemned.
297. T. S. Begbie.....	April 24	Capture of Gertrude.....	3	Do.	Part of cargo released; vessel and re-
298. Not reported.....	April 24	Capture of Antelope.....	3		mainder condemned.
299. W. Hadden.....	April 24	Capture of Agnes	3		Refused to interfere, under advice of law
300. Messrs. Harvey & Tucker.	April 28	Capture of Pacific; subsequently re-	6	leased without damages.	officers, as owners should have appealed to a superior court.
301. E. Williams	April 28	Capture of Gipsay.....	3		Condemned.
302. Captain G. Grindle.....	April 27	Capture of Antona, of which he was master. Detention on board United States ship Pensacola.	16		Case tried at New York. Vessel con-
303. Messrs. J. & T. Johnson.	May 5	Claim as owners of Antona.	.....		demned. Master released.
304. A. Ruberg.....	May	Imprisonment at San Francisco	14	Released.	
305. J. F. Bourne.....	May 1	Owner of St. George captured	6	Condemned.	
306. J. L. Finnell.....	May	Part owner of cargo of St. George.	.....	Released by admiral in command of United States squadron without going to prize court	
307. J. E. Davidson	May 4	Capture of Anne Sophia	1		Inquiry promised. Result not reported.
308. Capt. J. Simpkins.....	May 5	His vessel Dream fired at by a vessel hoisting United States colors.	5		Referred to prize court. Vessel con-
309. J. Murphy.....	May 18	Part owner of cargo of Dolphin	3	demned.	
300. J. J. Craven.....	May 19	Imprisonment and banishment from Mis-	5	Refused to interfere; the authorship of the pamphlet being proved.	

Return of claims of British subjects against the United States government, &c.—Continued.

Name.	By whom reported.	Date.	No. of despatches and letters to and from foreign office.	Ground of claim.	How disposed of.
301. G. R. Gammon	Consul Archibald	1833. May 22	3	Capture of Carita	Condemned.
302. T. Beat	do.	May 22	3	Capture of Emma Amelia	Do.
303. J. A. Laws	do.	May 22	1	Capture of Gleaner. Seized at Tortugas.	Released on arrival at Key West.
304. Messrs. Johnson, Comber & Co.	Consul Morgan	May 26	16	Detention of Castor at Bahia, by United States ship Mohican, at the instance of the United States consul.	Inquiry instituted. Result not yet reported.
305. T. Paulsen	Lord Lyons	May 29	11	Imprisonment as master of Tampico.	Vessel condemned. Master and crew released.
306. S. J. Nagle	do.			Imprisonment as supercargo of Tampico.	
307. Messrs. F. Huth & Co.	do.			Capture of the Tampico.	
308. W. H. Fisher	Claimant	June 18	7	Capture of the Minnie	Vessel condemned in Philadelphia prize court.
309. W. Binney	Lord Lyons	May 29	16	Owner of Clyde captured when on a voyage from Campeche to Havana.	Vessel restored. Cargo detained. Correspondence continuing.
310. F. G. Wood	do.	May 29	8	Passenger in Clyde. Detention and loss of property.	Property restored.
311. Messrs. Pauvert & Son, W. H. Smith.	do.	June 2	2	Capture of the Maria	Condemned.
312. T. Sherman	do.	June 8	2	Imprisonment being in United States navy, for alleged refusal to fight against Great Britain.	Refused to interfere, as he was in the United States service.
313. T. Bennett.	Consul Archibald	June 8	3	Capture W. J. Leitch.	Condemned
314. P. Capper	do.	June 4	3	Capture of Eagle	Do.

315. T. Johnson .....	.....do.....	une 8	3	Capture of Comet	Do.
316. J. Green.....	Lord Lyons	une 12	5	Injury to property by United States troops.	United States government promise to inquire into such claims when money is granted by Congress for compensation.
317. Messrs. Barr & Williamson.	Claimants.	June 22	13	Part owners of cargo in Hiawatha	Vessel condemned. Application made on behalf of owners of cargo. Answer not yet received.
318. J. Hardcastle	Lord Lyons	June 22	14	Imprisonment	Mr. Hardcastle shot by a sentry at Old Capitol prison. Correspondence continuing.
319. Toolal, Broadbust & Co.	.....do.....	June 22	17	Exaction of bonds from persons shipping goods from New York to the West Indies.	United States government refused to relax restrictions on this trade.
320. Messrs. Wier	Consul Archibald	une 25	13	Isabella Thompson, captured between Nassau and Halifax.	Vessel restored without costs or damages. Appeal pending.
321. Messrs. Pryor & Sons.	Lord Lyons	June 26	5	Imprisonment	Refused to interfere, as Mr. Vernon had been domiciled in the southern States.
322. J. McDaniel.	Consul Lousada	June 29	1	Capture of St. John	Do.
323. Messrs. Saunders.	.....do.....	June 29	2	Capture of Alma	Do.
324. N. K. Clements.	.....do.....	June 29	2	Capture of Cherokee	Do.
325. J. McAlister Vernon.	.....do.....	June 29	1	Captures of Julia, P. C. Wallis, Cuba, Louise, R. O. Bryan, Defiance.	Condemned.
326. Not reported .....	.....do.....	.....	.....	Zulima	Pending.
327. Do.....	.....do.....	.....	.....	James Anderson seized by collector at Edgartown.	Restored on payment of expenses.
328. Do.....	.....do.....	.....	.....	La Manche seized by collector at Edgartown.	Restored on payment of expenses.
329. Not reported .....	.....do.....	.....	.....	.....	.....
330. Do.....	.....do.....	June 29	.....	.....	.....
331. Not reported .....	.....do.....	.....	.....	.....	.....
332. Do.....	.....do.....	.....	.....	Capture of D. E. Wolf	Pending.
333. Captain W. Wilson..	Colonial office	July 3	42	On behalf of Mr. G. A. Trenholm, for the destruction of the Margaret and Jessie off the coast of Eleuthera, by the United States ship Rhode Island.	Evidence submitted to United States government. Correspondence continuing
334. J. N. Harvey.....	Lord Lyons	July 3	10	Prohibition to export cattle from New York to British West Indies.	Permission refused. Correspondence continuing.
335. J. Miller.	.....	.....	.....	.....	.....

Return of claims of British subjects against the United States government, &c.—Continued.

Name.	By whom reported.	Date.	No. of despatches and letters to and from foreign office.	Ground of claim.	How disposed of.
336. J. Cosby	Sir Hugh Cairns	1863. July 4	5	Imprisonment at New Orleans	Refused to interfere, as he confessed to having attempted to pass the military lines surreptitiously. Mr. Cosby released.
337. A. J. Mundella	Mr. C. Paget, M. P.	July 5	5	Part owner of cargo of Peterhoff	Informed must wait for result of appeal.
338. T. Hilliard	Consul Archibald	July 6	2	Capture of Hattie	Vessel restored on payment of salvage. Cargo condemned.
339. T. R. Duncan	Act'g Consul Walker.	July 9	7	Arrest and banishment from United States.	Inquiry promised.
340. J. J. Scora Halberg & Co.	Lord Lyons	July 17	27	Capture of Victor	Restoration ordered by prize court. Appeal of captors pending.
341. Hymman & Co.	do	July 17	.....	} Captain, engineer and mate of Victor. } } Alleged ill-treatment at Key West. }	Refused to interfere, ill-treatment not being proved.
342. J. J. Pierce	do	July 17	.....	
343. G. H. Ardill	do	July 17	.....	} Capture of Rebecca	Condemned.
344. L. Kennedy	do	July 17	.....	
345. J. Cushing	Consul Archibald	July 18	2	Capture of Rebecca	Vessel released without trial. Claim for damages under consideration.
346. G. P. Bell	do	July 20	15	Capture of Don José	Condemned.
347. P. Cupper	do	July 20	3	Capture of Eagle	Vessel and cargo restored.
348. J. Harkness	do	July 20	3	Capture of Puchmataka	Do.
349. W. H. Crosscup	do	July 20	6	Capture of Elisabeth	Condemned.
350. T. S. Hegbia	do	July 27	7	Capture of Emma	Vessel and cargo restored.
351. J. D. Taylor	Consul Vines	July 30	17	United States ship Kearsarge, on Torpedoes, fired at, and searched, by United States ship Kearsarge, on Torpedoes.	Condemned. United States government have expressed regret for proceedings. Correspondence continuing.

352. R. Atkin	Claimant.....	Aug. 4	13	Alleged improper exercise of jurisdiction by admiralty court at New York in an action at law brought against him by a seaman formerly serving in his ship, Dennis Hill.	Refused to interfere, as law officers considered the court had jurisdiction in such cases.
353. Not reported	Consul Archibald	Aug. 22	2	Capture of Nymph.....	Condemned.
354. P. A. Spearwater	Mr. Stuart	Aug. 28	8	Capture of Echo.....	Vessel released by prize court, without damages. Refused to interfere at present.
355. Rev. M. Lightbourne.	Act'g Consul Walker.	Aug. 31	4	Injury done by United States troops to property at Jackson.	Informed could not interfere, as he was domiciled at Jackson.
356. Messrs. Wilson & Sons.	Claimants.....	Sept. 5	6	Part owners of cargo of Peterhoff	Appeal pending.
357. A. Curry	Consul Archibald	Sept. 5	2	Capture of Charmer.....	Condemned.
358. J. Smith	do.....	Sept. 5	.....	Capture of Clara Louise	Do.
359. J. H. Adams	do.....	.....	.....	Capture of Southern Rights.....	Do.
360. Anos Johnston	do.....	.....	.....	Capture of Shot	Do.
361. — Russell.....	do.....	.....	.....	Capture of Ann.....	Do.
362. G. Barrows	Mr. Stuart.....	Sept. 13	8	Imprisonment at Memphis, in 1862	Inquiry made. Further evidence required.
363. P. Jarmay.....	Claimant.....	Sept. 17	2	Alleged intention of the United States government to detain him in the United States.	Informed that he should apply to Lord Lyons.
364. B. W. Hart	do.....	Sept. 30	4	Atlantic, captured by the United States ship Princess Royal, and subsequently rescued.	Refused to interfere, as the vessel had been rescued.
365. B. F. Allen	Admiralty	Oct. 5	15	Proceedings of the United States consul at Rio de Janeiro with regard to his vessels Gracie, Annie, and Lottie.	Waiting for report from her Majesty's consul at Rio de Janeiro.
366. W. Thompson	Claimant.....	Oct. 14	5	Imprisonment	Waiting for trial.
367. Mr. W. Matchett	do.....	Oct. 15	7	.....	Released. Refused to interfere further, as he had exercised the rights of citizen-ship.
368. Captain Tucker and J. Nagle.	do.....	Oct. 23	4	Capture of Carnita, off the coast of Texas.	Condemned.
369. Messrs. J. & S. Henry.	Lord Lyons	Nov. 3	42	Capture of Sir W. Peel	Under consideration.
370. Messrs. Renouard & Co.	do.....	Nov. 3	4	Etta, formerly confederate vessel Retribution, seized at New York.	Case to be tried in a court of law. Reason for seizure not reported.
371. Messrs. Leo Schnuster & Co.	Messrs. Bateson & Robinson.	Nov. 12	7	Part owners of cargo of Magicienne.....	To be considered with other claims arising out of this case.
372. — Berkley	J. Berkley	Nov. 25	3	Alleged forced enlistment.....	Not enlisted.

Return of claims of British subjects against the United States government, &c.—Continued.

Name.	By whom reported.	Date.	Number of despatches and letters to and from foreign office.	Ground of claim.	How disposed of.
373. Not reported.....	Consul Archibald ...	1863.	12	Capture of Banshee, on 21st November..	Condemned.
374. J. Smith.....	Claimant.....	Nov. 30	5	Ill usage when serving in New York police.	Refused to interfere, under advice of law officers.
375. J. Turner.....	.....do.....	Dec. 14	3	Alleged misconduct of customs' officers at Boston.	Under consideration.
376. Messrs. Gallichan .....	.....do.....	Dec. 17	17	Capture of Volant	Do.
377. Messrs. Bateson & Robinson.	.....do.....	Dec. 18	12	Capture of Dashing Wave.....	Do.
378. Messrs. Birchoff.	Lord Rosse.....	Dec. 21	7	Imprisonment	Inquiry made. Result not reported.
379. — Gray.....	Consul Lonsada	Dec. 22	1	Capture of Victory.....	Condemned.
380. Not reported .....	.....do.....	Dec. 22	.....	Capture of Britannia	Do.
381. Do .....	.....do.....	Dec. 22	.....	Capture of Banshee on 28th July	Restored. Claim for damages pending.
382. Do .....	.....do.....	Dec. 22	1	Capture of Constadt.....	Condemned.
383. Do .....	.....do.....	Dec. 22	.....	Capture of Ella.....	Pending.
384. Do .....	.....do.....	Dec. 22	.....	Capture of Cornubia	Do.
385. Do .....	.....do.....	Dec. 22	.....	Capture of R. T. Renshaw.....	Do.
386. Do .....	.....do.....	Dec. 22	.....	Capture of Atlantic.....	Do.
387. Do .....	.....do.....	Dec. 22	.....	Capture of R. E. Lee	Do.
388. Do .....	.....do.....	Dec. 22	.....	Capture of Herald.....	Do.
389. Do .....	.....do.....	Dec. 22	.....	Capture of Science	Under consideration.
390. Messrs. Bennett & Wake.	Claimants.....	Dec. 30	26	.....do.....	Do.
391. J. Angel.....	Claimant.....	Dec. 31	2	.....do.....	Do.
392. J. Crutchett .....	.....do.....	Jan. 1-1864.	11	Refusal to property	Do.

393. Messrs. Anderson, Saxon & Co.	Meessrs. Sinclair & Hamilton.	Jan. 4	93	Capture of Saxon. Coals seized at Angra Pequena.	Do.
394. Messrs. de Lizardi & Co.	Claimants	Jan. 5 1863.	6	Bullion captured in Dashing Wave	Do.
395. Not reported	Lord Lyons	Dec. 29	5	Capture of Matamoros	Released by prize court. Under consideration.
396. R. Jump	do.	Dec. 29	6	Detention of Florrie at New Orleans	Do.
397. H. Allison	do.			Similar detention of H. G. Berry	Do.
398. Not reported	do.			Similar detention of Vigilant and other vessels.	Do.
399. Lieutenant Rooke	do.	Dec. 31 1864.	9	Imprisonment	Case represented to United States government. Did not interfere further. Lieutenant Rooke released.
400. Not reported	Consul Kortright	Jan. 7	1	Captures of Rebecca, Laciola, Corn, Rowena, Sarah, Cataline, Morning Star, Chance, Caroline and Virginia, Emilie, Worster Shrubbs, Volant, Emma, Dixie, Napier, Ladona, Aquilla, Elizabeth, Louisa, Josephine, Eliza, Fanny, Defiance, Fanny Laure, William Creevy, Nelly, David Crockett, Elmira Cornelius, Caroline, Emma, Wave, Brilliant, J. C. Rober, Princess Royal, Glide, Major E. Willis, Minnie, Brilliant, Time, Wanderer, Express, Wonder, Bettie Kratzer, Emma, Artist, Jupiter.	All condemned.
401. Family of J. Gray	Colonel Sykes, M. P.	Jan. 29	7	J. Gray killed by Lieutenant Donovan, of United States navy, on board Saxon.	Under consideration.
402. James O'Neill	Lord Lyons	Jan. 26	5	Imprisonment	Released. Under consideration.
403. P. Hamilton	do.	Jan. 26	4	do.	Do.
404. Captain Steele	do.	Jan. 26	8	do.	Released.
405. J. McHugh	do.	Jan. 26	5	do.	Under consideration.
406. G. F. Cauty	do.	Jan. 26	4	do.	Released.
407. J. Encas	do.	Jan. 26	4	do.	Under consideration.
408. J. C. Rahming	do.	Jan. 26	6	do.	Do.
409. G. H. Pearce	Colonial office	Feb. 13	5	Interference of officer of a vessel flying United States colors with their wrecking schooner Dart.	Instructions sent to Lord Lyons.
410. J. Harris					
411. W. H. Bethel					

Return of claims of British subjects against the United States government, &c.—Continued.

Name.	By whom reported.	Date.	Number of despatches and letters to and from foreign office.	Ground of claim.	How disposed of.
412. J. Ring.....	Lord Lyons.....	1864.	7	Imprisonment at Key West.....	Instructions sent.
413. J. Macaulay.....	T. Macaulay.....	Feb. 5	3	Ill usage at Hilton Head.....	Lord Lyons to inquire.
414. J. M. Wilson.....	Claimant.....	Feb. 19	5	Loss of property.....	Refused to interfere, as the case relating to land in Pennsylvania was one for the consideration of the United States courts of law.
415. W. Miller.....	Lord Bury.....	Feb. 22	4	Ill treatment and loss of property.....	Lord Lyons to inquire.
416. Heirs of late J. Purvis.....	A. Scott.....	Mar. 7	6	Property destroyed by United States troops.....	Under consideration.
417. C. Cole.....	Lord Lyons.....	Feb. 29	2	Alleged improper conscription, he claiming to be a British subject.	Do.
418. Hugh Bennett.....	Board of Trade.....	Mar. 14	3	Imprisonment on board United States ship North Carolina.	Instructions sent to Lord Lyons.
419. Captain Haggin.....	Lord Lyons.....	Mar. 8	1	Imprisonment. Was master of <i>Sylvanus</i>	Under consideration.
420. R. S. Bernard.....	do.....	Mar. 8	1	Imprisonment. Captured in <i>Sallie</i>	Do.
421. D. Wilson.	do.....	Mar. 8	3	Capture of <i>Sallie</i>	Do.
422. J. May.	do.....	Mar. 8	1	Capture of <i>Sylvanus</i>	Do.
423. Not reported.....	do.....	Mar. 8	1	Imprisonment.....	Do.
424. Do.....	do.....	Mar. 8	1	Captures of Annie, Kate, Maria, and Bishop.	Condemned.
425. J. Barnett.....	do.....	Mar. 8	1	Owners of part of cargo of American vessel <i>Lynchburg</i> .	Measrs. Brown's part of cargo released.
426. Not reported.....	Consul Archibald.....	Mar. 12	1	Capture of <i>Mary Clinton</i>	Condemned. Appeal pending.
427. Measrs. Brown.....	do.....				
428. Measrs. Hargreaves and Bennett.	do.....				

429. H. A. McLeod	do.	Capture of Prince Leopold.	Condemned.	Appeal pending.
430. C. M. Fry	do.	Capture of Sally Magos	Do.	
431. C. and C. C. Cromwell	do.	Capture of Andromeda	Condemned.	
432. J. Walker	do.	Capture of Adele	Restored.	
433. W. Hadden	do.	Capture of Agnes	Condemned.	Appeal pending.
434. B. Renaud	do.	Capture of Bessing	Do.	
435. R. May	do.	Capture of Cora	Condemned.	
436. D. Leale	do.	Capture of Columbia	Do.	
437. A. Borrowman	do.	Capture of Courier	Do.	
438. E. F. Rich	do.	Capture of Francis	Do.	
439. J. Merrill	do.	Capture of Henry Travers	Do.	
440. E. G. Guthrie	do.	Capture of Ida	Do.	
441. James Lions	do.	Capture of Jane	Condemned.	Appeal pending.
442. J. Matthews	do.			
443. W. Austin	do.	Capture of Lucy	Do.	
444. M. Oliphant	do.	Capture of Nahum Stetson	Do.	
445. J. King	do.	Capture of Pearl	Do.	
446. J. R. Russell	do.	Capture of Tower	Condemned.	
447. D. J. Cook	do.	Capture of Venice	Condemned.	Appeal pending.
448. H. Wickland	do.	Capture of Victoria	Released by captor.	
449. W. H. Cooper	do.	Capture of William	Condemned.	
450. Not reported	do.	Captures of Adventure, Agnes, Avenger, Anna, Ascension, By George, Curlew, Dart, Director, Emma, Ellen, Eugenie, Edward, Florence Nightingale, Frolic, Georgia, Hermosa, Handy, Harriet, Julia, Juniper, Justina, Lavinia, Lily, Linnet, Lady Maria, Margaret, Maggie Fulton, Martha Jane, Mail, Meteor, Maria Alberti, Newcastle, New Year, Neptune, O. S. Breese, Ripple, Relampago, Richard, Ringdove, Sea Bird, and Sea Drift.		
451. N. R. Clements	do.	Capture of Glen, July, 1863	Released.	\$17,150 damages and costs awarded against captors by prize court.

Total number of despatches and letters to and from Foreign Office, 2,871.

Return of claims of British subjects against the United States government, &c.—Continued.

Name.	By whom reported.	Date.	Number of despatches and letters to and from foreign office.	Ground of claim.	How disposed of.
412. J. Ring.....	Lord Lyons.....	1864.	7	Imprisonment at Key West.....	Instructions sent.
413. J. Macaulay.....	T. Macaulay.....	Feb. 5	3	Ill usage at Hilton Head.....	Lord Lyons to inquire.
414. J. M. Wilson.....	Claimant.....	Feb. 19	5	Loss of property.....	Refused to interfere, as the case relating to land in Pennsylvania was one for the consideration of the United States courts of law.
415. W. Miller.....	Lord Bury.....	Feb. 22	4	Ill treatment and loss of property.....	Lord Lyons to inquire.
416. Heirs of late J. Purvis.....	A. Scott.....	Mar. 7	6	Property destroyed by United States troops.	Under consideration.
417. C. Cole.....	Lord Lyons.....	Feb. 29	2	Alleged improper conscription, he claiming to be a British subject.	Do.
418. Hugh Bennett.....	Board of Trade.....	Mar. 14	3	Imprisonment on board United States ship North Carolina.	Instructions sent to Lord Lyons.
419. Captain Haggin.....	Lord Lyons.....	Mar. 8	1	Imprisonment. Was master of <i>Sylvanus</i>	Under consideration.
420. R. S. Bernard.....	do.....	Mar. 8	1	Imprisonment. Captured in <i>Sallie</i>	Do.
421. D. Wilcox.....	do.....	Mar. 8			
422. J. May.....	do.....	Mar. 8	3	Capture of <i>Sallie</i>	Do.
423. Not reported.....	do.....	Mar. 8	1	Capture of <i>Sylvanus</i>	Do.
424. Do.....	do.....	Mar. 8		Imprisonment.....	Do.
425. J. Barrett.....	do.....	Mar. 8		Captures of Annie, Kate, Maria, and Bishop.	Condemned.
426. Not reported.....	Consul Archibald.....	Mar. 12	1	Owners of part of cargo of American vessel <i>Lynchburg</i> .	Messrs. Brown's part of cargo released.
427. Messrs. Brown.....	do.....			Capture of <i>Mary Clinton</i>	Condemned. Appeal pending.
428. Messrs. Sturges and Bennett.....	do.....				

429. H. A. McLeod.....	do.....	Capture of Prince Leopold.....	Condemned.	Appeal pending.
430. C. M. Fry.....	do.....	Capture of Sally Macroe.....	Do.	
431. C. and C. C. Cronwell.....	do.....	Capture of Andromeda.....	Condemned.	
432. J. Walker.....	do.....	Capture of Adele.....	Restored.	
433. W. Hadden.....	do.....	Capture of Agnes.....	Condemned.	Appeal pending.
434. B. Renaud.....	do.....	Capture of Basgoing.....	Do.	
435. R. May.....	do.....	Capture of Cora.....	Do.	
436. D. Leslie.....	do.....	Capture of Columbia.....	Do.	
437. A. Borrowman.....	do.....	Capture of Courier.....	Do.	
438. E. F. Rich.....	do.....	Capture of Francis.....	Do.	
439. J. Merrill.....	do.....	Capture of Henry Travers.....	Do.	
440. E. G. Guthrie.....	do.....	Capture of Ida.....	Do.	
441. James Lions.....	do.....	Capture of Jane.....	Condemned.	Appeal pending.
442. J. Matthews.....	do.....			
443. W. Austin.....	do.....	Capture of Lucy.....	Do.	
444. M. Oliphant.....	do.....	Capture of Nahum Stetson.....	Do.	
445. J. King.....	do.....	Capture of Pearl.....	Do.	
446. J. R. Russell.....	do.....	Capture of Tower.....	Condemned.	
447. D. J. Cook.....	do.....	Capture of Venice.....	Condemned.	Appeal pending.
448. H. Wickland.....	do.....	Capture of Victoria.....	Released by captor.	
449. W. H. Cooper.....	do.....	Capture of William.....	Condemned.	
450. Not reported.....	do.....	Captures of Adventure. Agnes, Avenger, Anna, Ascension, By George, Curlew, Dart, Director, Emma, Ellen, Engenie, Edward, Florence Nightingale, Frolic, Georgia, Hermosa, Handy, Harriet, Julia, Juniper, Justina, Lavinia, Lily, Linnet, Lady Maria, Margaret, Mag- gie Fulton, Martha Jane, Mail, Me- teor, Maria Alberti, Newcastle, New Year, Neptune, O. S. Breeze, Ripple, Relampago, Richard, Ringdove, Sea Bird, and Sea Drift.	Do.	
451. N. R. Clements.....	do.....	Capture of Glen, July, 1863.....	Released.	\$17,150 damages and costs awarded against captors by prize court.

Total number of despatches and letters to and from Foreign Office, 2,871.

MEMORANDUM.

This return comprises the result of the fullest examination of the correspondence in the Foreign Office, and is believed to be complete as far as that correspondence goes. In order, however, to guard against any prejudice which might result to British claimants from their claims not being inserted in this list, it is necessary to observe that the return is not to be taken as conclusive; and this reserve is the more necessary inasmuch as it is understood that numerous claims have been registered in the British Mission at Washington, though not reported home, which may in due season be brought before the government of the United States.

FOREIGN OFFICE, *March 31, 1864.*

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Further correspondence respecting the enlistment of British seamen at Queenstown on board the United States ship-of-war Kearsarge.

LIST OF PAPERS.

- No. 1. Earl Russell to Mr. Adams, March 31, 1864.—One enclosure.
 No. 2. Mr. Adams to Earl Russell, April 2, 1864.
 No. 3. Earl Russell to Mr. Adams, April 9, 1864.
 No. 4. Earl Russell to Mr. Adams, April 9, 1864.—One enclosure.
 No. 5. Mr. Adams to Earl Russell, April 11, 1864.
 No. 6. Earl Russell to Mr. Adams, April 13, 1864.
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No. 1.

Earl Russell to Mr. Adams.

FOREIGN OFFICE, *March 31, 1864.*

SIR: I have the honor to bring to your notice an account taken from a newspaper of what passed at a trial before Mr. Justice Keogh of the British subjects indicted for having taken service in the United States ship Kearsarge, at Queenstown, in violation of the provisions of the foreign enlistment act, and with reference to the correspondence which has passed between us. I have the honor to request that you will inform me whether you have any explanations to offer on the subject.

I am, &c.,

RUSSELL

[Enclosure in No. 1.]

Extract from the Dublin Evening Mail of March 16, 1864.

[From our own correspondent.]

CROWN COURT.—Before Mr. Justice KEOGH.—THE KEARSARGE.

CORK, *Monday, March 14.*

John Sullivan, John Murphy, Edward Pyburn, Thomas Murphy, Denis Leary, and Daniel O'Connell, were indicted for having on the 4th of November, 1863, agreed to enter service as sailors on board a vessel-of-war of the United States of America, called the Kearsarge, contrary to the provisions of the foreign enlistment act.

The right honorable the attorney general, M. P., Sir Colman O'Loughlen, Q. C., M. P., C. R. Barry, Q. C., James O'Hea, George Waters, and J. C. Neligan, appeared for the crown. Mr. J. C. Coffey, instructed by Mr. C. P. Wallis, appeared to watch the proceedings on behalf of the Confederate States of America. The prisoners were undefended.

They were all young men of very respectable appearance, and wore the naval dress of American sailors.

They pleaded "guilty," one of them saying that they did not think it was any harm.

The ATTORNEY GENERAL said that the object of his attendance had been to some extent accomplished. The traversers had wisely submitted, for the evi-

dence against them was conclusive. The law had been vindicated in the first and only case in which it had been possible to prove an infringement of the foreign enlistment act in Ireland; and he took that opportunity of announcing to the people the nature of that statute, the mischief which it aimed to prevent, and the determination of the executive to enforce its provisions. The act 29 George III, cap. 69, presented in the briefest untechnical language, forbade any natural-born subject of the Queen, without her express authority, to enlist, or to induce others to enlist, in any foreign service, military or naval, under pain of fine and imprisonment, at the discretion of the court. The policy of this law was manifestly wise and just. It tended to maintain amity throughout the great family of civilized nations, and it had the highest sanction of morality and religion, in forbidding men to shed the blood of their fellow-creatures in conflicts with which they had no concern, for the wretched hire of the mercenary, without the pretext of self-defence or the approval of legitimate authority. The circumstances of this country made the enforcement of the statute especially necessary to Ireland. He lamented the vast emigration which had been produced by much suffering in latter years, encouraged by increased facilities of transit, and the larger rewards of labor beyond the seas, and continued by the family attachment which induced those who had gone to help their friends to follow, and those who remained to desire reunion with the objects of their old affections. But, lament it as we might, we could not forbid the free egress of our people, save when it was made for purposes condemned by the law. A fearful struggle was convulsing the western continent. That struggle commanded our anxious attention, but we had no right to decide between the combatants. The wisest and best among us held opposing views upon the merits of the contending causes, and those who administered the law were bound to see that, so far as possible, the subjects of this realm should not meddle with it to their own destruction, and the interruption of our friendly relations with foreign powers. When we thought of the blood which had been shed by Irishmen in that terrible contest, the necessity for the discharge of that duty became more painfully apparent. They had been slaughtered wholesale, it was said to the number of 200,000. Was it not dreadful that men of our race should be arrayed in both the contending armies, and butcher each other in a ruthless controversy which was not theirs, for objects with which their country was not identified? If it were true, as has been stated, that in December last there were in New York 108,971 persons born in Ireland in a state of pauperism, of whom 65,500 were women, it was surely impossible to give more appalling proof of the wretchedness which had been born of this war, or more persuasive argument of the propriety of making an effort to save our people from such calamity. Not merely, therefore, for the legal maintenance of international relations, but also for the well-being of the Irish community, the executive government would put the law in force with perfect impartiality, whether the attempt at enlistment should be made for the south or the north. This was the first case in which it had been found possible to prosecute, and the traversers, having perhaps erred in ignorance of the law, and having shown a proper feeling in submission, would, he had no doubt, be dealt with leniently by the court. But hereafter, should any attempt be made to evade or defy the law, all who might have concern in it, and especially any who might be engaged as agents in inducing others to enlist, would be without excuse, and should be without mercy.

His lordship asked the attorney general whether he pressed for any punishment. He did not wish to be misunderstood as suggesting any course. He would offer no suggestion whatever.

THE ATTORNEY GENERAL. I quite understand your lordship. I accept the responsibility, and say at once that, considering this is the very first occasion on which the statute has been authoritatively promulgated in Ireland—the high probability that the traversers were, as they alleged, ignorant of its existence—

the probability, also, that they acted from straitened circumstances, and with a view to better their condition—the excellent characters which, as the resident magistrate informs me, they have always borne, and the fact that those by whom they were induced to act illegally are not amenable to justice—I think I exercise a sound discretion in stating to the court that I do not press for punishment. I believe every purpose of this trial and of my presence here will be substantially attained if the prisoners are bound over to appear for judgment when called. The country will know what the law is, and that it will be stringently enforced.

His lordship said the attorney general had taken a bold course. He had taken the whole responsibility on himself—a responsibility which he (Judge Keogh) was satisfied the attorney general was able, as he always was, to sustain. The course which had been taken was also a wise one. The act on which the prosecution was grounded was one of the wisest, in his opinion, now remaining on our statute-book, and the policy of the law had been most clearly stated by the attorney general in language which he (the learned judge) could not attempt to imitate, and with eloquence which he had seldom heard surpassed. It was an act passed so long ago as the year 1819, and it provided that any person who should, directly or indirectly, violate that act should be liable to a heavy fine and imprisonment. Here we had those young men entering the service of the United States, a power at peace with Great Britain, at Queenstown, in the grossest violation of all amicable relations which ought to exist between friendly powers. The subjects of this realm were taken by officers of that navy. They well knew that they were violating the municipal laws of this country in taking the subjects of these realms on board that ship. He regretted exceedingly that, instead of trying these young men, who he could well believe were ignorant of the act, influenced, perhaps, by want of employment, perhaps by a desire for adventure, perhaps by a desire to see other lands—he was not trying the guilty persons who had induced them to violate the law. It was no imputation on those who administered the law that those parties were not here, as we are aware that the vessel had gone across the sea. He concurred in all that had been so eloquently said by the attorney general as to the policy of the law, and he concurred in the prudence and wisdom of every word of the advice which he had given to our countrymen to hold aloof from that internecine conflict in which our people in the north and south, many of them natural-born subjects of this country, were enlisted to fight in a cause in which they had no concern. Hundreds and thousands of them had fallen, “unwept, unhonored, and unsung.” Their bones were bleaching under a foreign sun, where they had been entrapped by the hope of reward and by enormous promises. Whether these promises would be fulfilled they would see in time. There they had gone down to their graves, after hard-fought fields, upon which they had exposed their valiant breasts for men who cared not whether they lived or died, provided they only could carry out their own selfish objects. (Applause.) He had other cause of regret in this case. He saw there those young men, whose countenances spoke no guilt, no crime, and he did think it was a subject of deep regret that the adventurous spirit they displayed was not availed of in this country more than it was. Questions of public policy were not for the bench, but one might even here express regret that that magnificent harbor, second to none in the world, placed in the high-road of all nations, the entrance gate of those seas which lead to the capital of the empire, to her arsenals, to her ports for her navy, to the ports of her mercantile marine—that it was not more availed of for the purpose of teaching, by practical visible examples, that under no flag in the world are such opportunities presented for the brave and the adventurous as that which floats over the British empire; that no flag has ever floated upon the ocean beneath which so many deeds of glory have been performed as that which waves over the subject of her Majesty. (Applause.) He could wish, and he did hope, that even they

might live to see the day when those waters would not lie without a burden' but that there might arise on the banks of that great bay arsenals such as existed in other places, and that the expenditure, to a certain degree, of both countries might take place here, and that the adventure and enterprise of such men as he now saw before him might be enlisted in the cause of our own Sovereign, and not directed to the army or fleet of any foreign power in the world. (Loud applause.) He trusted that the warning of the attorney general would be understood by every one, and that many would leave that place with a better opinion of British law and justice, especially when administered by men such as the distinguished gentlemen he now saw before him.

The prisoners then entered into recognizances in 20*l.* each to come up for judgment if called on, and were discharged.

No. 2.

Mr. Adams to Earl Russell.—(Received April 2.)

LEGATION OF THE UNITED STATES,
London, April 2, 1864.

MY LORD: I have had the honor to receive your note of the 31st of March, bringing to my notice an account taken from a newspaper of what passed at the trial before Mr. Justice Keogh of the British subjects indicted for taking service in the United States ship *Kearsarge*, at Queenstown, and further requesting me to inform you whether I have any explanation to offer on the subject.

I am very happy to seize the opportunity thus offered to me to state the facts connected with that case, so far as they have been submitted to my examination.

And first, it gives me great satisfaction to apprise your lordship that so long ago as the 26th of December last my government, on the receipt of the first intelligence of your note to me of the 30th of November, addressed to me instructions immediately to investigate the charges against both of the officers referred to in that note, and if I found it sustained against the consul, Mr. Eastman, to dismiss him at once without waiting for further directions; and with respect to the commander of the *Kearsarge*, in case he was found to have been guilty, I was directed to apprise your lordship that he would be promptly relieved of his command, and other satisfactory amends would be offered to her Majesty's government.

I trust that this statement will serve to convince your lordship that, so far as my government is concerned, it has no disposition to tolerate any act of its officers which shall be shown to have been done in contravention of the laws of this kingdom.

The reason why I have not acted under these instructions has been that I have thus far seen no evidence to justify me in doubting the statement of the consul, Mr. Eastman, made to me, that he had no part whatever in the matter. The first intelligence he appears to have had of the men being actually on board the vessel was by a letter from Captain Winslow, reference to which is made in the letter of Rear-Admiral Jones of the 7th of December. The only testimony affecting him is that of Patrick Kennedy, merely to the effect that he saw him on board the *Kearsarge*, in conversation with some of the officers. Mr. Eastman had early informed me that he did go on board to see the captain; that he found that he had gone ashore; that he did not go below, but stood conversing with the first lieutenant a little while on a subject having no relation whatever to enlistments, and that he soon returned to land. I trust your lord-

ship will agree with me in the opinion that the mere fact of being on board the Kearsarge would not justify me in suspecting the consul of being privy to an unlawful act, in the face of his positive denial to the contrary.

With regard to his denial of the charge against Captain Winslow, it is obvious that he could have made it only upon such information as he then possessed, and his own personal belief at the time that it was correct. Even were it admitted that he had been mistaken in this averment, it does not at all follow that his affirmation respecting himself is in any way impeached.

Having thus no evidence whatever in my hands, coming either from the persons alleged to have been enlisted or from any other source, to prove Mr. Eastman's knowledge or participation in the act charged, no case seemed to exist to justify me in pursuing any investigation. At the same time I feel it my duty to add that I have been directed to communicate to your lordship the desire of my government that I may be furnished with any such additional proofs as may be in your possession and may be deemed to be material, should it still be the wish of her Majesty's government that the matter should be further pursued.

In regard to the action of the officers of the Kearsarge, who appear to be generally involved by the language of Mr. Justice Keogh in the suspicion of being parties to a violation of the enlistment act, the facts, so far as I have been able to ascertain them, are these: It appears that one James Haley, a native of Ireland, but now in the service of the United States as a petty officer on board the Kearsarge, on or about the 2d of November went ashore to visit his relations at Ringaskiddy. While at this place there is reason to believe that he suggested to several men whom he met the probability that they might get employment on board of the steamer. There is no evidence that he himself promised them any, nor that he had any authority whatever to do so if he did. In point of fact he could have had none. To the extent thus defined it would seem as if he might have made himself liable as having violated the spirit if not the letter of her Majesty's law.

The announcement thus made and soon spread abroad produced an immediate effect among the population in the vicinity, the consequence of which was that a number of men, variously estimated at from 150 to 300, went out to the ship, eagerly seeking to be employed. A few of these, being the immediate townsmen of James Haley aforesaid, appear to have been presented to officer Thornton as applicants for enlistment, who, in the absence of the commander and of any definite instructions, gave them reason to suppose that they might be engaged. They were therefore subjected to the usual examination, subject to the approbation of the captain on his return. To the extent here specified officer Thornton appears to have made himself liable as having violated the spirit if not the letter of her Majesty's law. It is proper in his case to add that he avers he was not aware at the time of the provisions of that law.

On the return of the captain to his vessel he was consulted in regard to what had been done, and immediately gave orders not only to forbid the enlistments, but to clear the ship of all the men who had come, and further, to forbid the numerous boats that were crowding around it from coming alongside. The orders were executed not without considerable difficulty, from the desire of the men to stay, and the vessel sailed.

On the next day, however, it was discovered that several men, principally the neighbors and townsmen of James Haley, of Ringaskiddy, had succeeded in escaping detection and were still on board. That these people had been concealed with the connivance of some person or persons belonging to the crew of the Kearsarge, and in the hope of ultimately retaining them, there can be little doubt. But there is no reason to suppose that the commander had any knowledge of or share in it. On learning the fact, his first decision was to put them ashore at Brest, the port to which he was going. This was actually done. But on a re-

consideration of the destitute condition in which they would be left, and of the probability that they might be driven to have recourse to enlistment in the vessel formerly known to your lordship as the *Oreto*, and now the *Florida*, which has been notoriously fitted out from a British port and filled with British subjects, for months past carrying on war against the United States, he determined to take them on board once more, and to return to Queenstown for the purpose of restoring them in safety to their own homes. This was accordingly carried out.

The conclusion at which I arrived from an examination of the facts as they have been recited is, that no evidence is brought forward to show that Captain Winslow ever gave any authority to enlist one of these people in Queenstown or elsewhere. On the contrary, he forbade any such proceeding so soon as he knew it was contemplated, and when he found that his orders had been evaded, he took the only method in his power to repair the wrong by promptly restoring the individuals concerned to the condition from which they had been taken.

I am not, however, disposed to doubt that among some of those constituting the crew of the *Kearsarge* there may have been a desire to keep these men, with a hope that they might ultimately be suffered to retain their places on board. But I have no reason to suppose that this motive operated upon a single one of the principal officers of the ship. Presuming that it was not the purpose to pursue these investigations further than was necessary fully to sustain the majesty of the British law, I have rested quiet in the conviction that the clearly proved absence of all intention on the part of my government, or of any of its responsible agents, to commit an offence in the present instance, had most conclusively effected that object. If, however, it should turn out that additional measures would be agreeable to her Majesty's government, I shall be happy to be informed of the fact by your lordship, as well as to receive any and all further proofs that may be in its possession, in order to enable me to arrive at a more complete and satisfactory result.

In the mean time I am instructed to inform your lordship that my government, in this as in any other case that may occur, will not fail to vindicate its respect for the laws of Great Britain and for the law of nations.

I pray, &c.,

CHARLES FRANCIS ADAMS.

No. 3.

Earl Russell to Mr. Adams.

FOREIGN OFFICE, April 9, 1864.

SIR: I have had the honor to receive your letter of the 2d instant, in answer to the letter in which I requested you to inform me whether you had any explanations to offer with regard to the British subjects who were indicted for taking service in the United States ship *Kearsarge*.

In reply to your letter I have only to regret that officers Thornton and Haley, who appear clearly to have violated the municipal law of this country, which they were bound to have made themselves acquainted with, should still be retained in the service of the United States.

I am, &c.,

RUSSELL.

No. 4.

*Earl Russell to Mr. Adams.*FOREIGN OFFICE, *April 9, 1864.*

SIR: I transmit to you herewith extracts from a deposition of one Daniel O'Connell, by which you will perceive that he declares that he was examined and sworn before or with the knowledge of officers of the United States ship-of-war Kearsarge, and furnished with the uniform of a United States sailor.

I know not how these circumstances occurring on board a ship-of-war can have taken place without the knowledge of the captain of the vessel.

I am, &c.,

RUSSELL.

[Enclosure in No. 4.]

Extract from deposition of Daniel O'Connell.

A man that was, I believe, a doctor examined me, being stripped, and told me I was fit for service. I then went forward and the ship sailed next day.

One of the officers of the ship took me (with eight or nine of the men who had come on board at Queenstown) on shore at Brest in a boat, and when the boat had just touched the beach the officer said, "Any of you men that wish can go on there now, but if you wish you can enter on board the ship." All the men said they would enter, upon which the boat returned to the Kearsarge, and we were all sworn to enter the United States navy for three years, at twelve dollars per month each, and our names were entered in the ship's books, and we were provided with the ship's uniform.

No. 5.

Mr. Adams to Earl Russell.—(Received April 11.)

LEGATION OF THE UNITED STATES,
London, April 11, 1864.

MY LORD: I have the honor to acknowledge the reception of two notes from your lordship, both dated the 9th instant.

One of these notes expresses regret that officers Thornton and Haley, of the United States steamer Kearsarge, who, in your view, appear clearly to have violated the municipal law of this country, should still be retained in the service of the United States.

The other transmits to me extracts from a deposition of one Daniel O'Connell, in further support of an inference that the captain of the Kearsarge must have known of the enlistment of the Irishmen at Queenstown.

I would respectfully call your attention to the manner in which this latest testimony affects that which has been published heretofore. Edward Lynch, in his deposition taken on the 16th of November last, affirms that he went on board the Kearsarge in company with the said Daniel O'Connell, and that he saw the boatswain ship the said O'Connell at Queenstown after he had passed the usual inspection. This was on or about the 3d of November. He admits that the captain was not on board, but that he heard the commander say to the boatswain, "I'll leave them in charge to you now." This is all the evidence

that appears in any degree to implicate the first officer, here called the commander, Mr. Thornton, in the charge of enlistment within this kingdom.

But Daniel O'Connell himself on his side changes the whole scene of the transaction. He avers in the extract you have been pleased to furnish to me that the enlistment took place when one of the officers, whom he does not name, and who was not likely to have been Thornton, took eight or ten of the men in a boat for the purpose of landing them at Brest, in France. This must have been at the time when Captain Winslow affirms that he ordered them so to be landed for the purpose of getting rid of them. It would seem that this officer, instead of obeying orders, then offered to them the choice of landing or else of enlisting, upon which they all chose the latter, returned to the vessel, and were then enlisted. This enlistment was then made in a port of France.

It necessarily follows, from this exposition, that if O'Connell was enlisted at Queenstown, as Edward Lynch affirms, there was no enlistment of him at Brest, as O'Connell himself avers. If, on the other hand, O'Connell is right, that he was enlisted by an officer in a boat at Brest, then it is clear that there was no enlistment of him at Queenstown by officer Thornton, as alleged by Lynch. Two successive enlistments of the same man, at about the same time, are not necessary or customary in any service. On the other hand, officer Thornton himself denies that he ever enlisted anybody. He affirms that he expressed himself willing to accept the men at Queenstown, if the captain, on his return from shore, should approve of the proceeding. But the captain did not so approve, and nothing more was done about it by him.

If the officer who had charge of the boat to place the men on shore at Brest, in obedience to the order of the captain, took the responsibility of then and there enlisting and returning them to the ship, it is plain that he must have been acting directly in the face of his authority; and, furthermore, that he was immediately disavowed by his principal, for the steamer was forthwith ordered to leave Brest and make a direct course back to Queenstown, for no other purpose than to get rid of these very men, who are said to have been enlisted for three years. The contradiction is too apparent and palpable to permit of further doubt as to the character of the testimony. On the other hand, Captain Winslow himself says that when he found, after leaving Queenstown, that the men who, against his orders to clear them out of the vessel, were still on board, having been secreted there, he decided upon landing them at his first stopping-place at Brest. They were landed accordingly; but upon a reconsideration of their destitute condition, and of the danger of their falling into the hands of the insurgents, notoriously without scruple about enlisting the subjects of Great Britain or any other nation, he determined to take them on board again for the purpose of returning them to Queenstown, which was accordingly done with promptness and despatch.

I am constrained to believe this account to be altogether the most consistent and credible. The others conflict with each other and with probability so strongly that I trust I may be pardoned for withdrawing the little credit I have been heretofore disposed to give them.

The only remaining piece of circumstantial evidence to sustain the idea of enlistment is the admitted fact of the men having been landed whilst dressed in the clothing of seamen in the United States service. That such clothing was given out to them, probably with the connivance of the petty officer, whose agency first induced them to come on board, is very certain. That it was not taken away from them is alleged to be solely owing to the fact that their own clothing was in every respect unfit for them to appear in decently on board. During the period of their stay they were rated on the ship's books to make the accounts regular, and when they left it was deemed more proper to let them have the dress they had already worn for some time. Had it been thought that more seriously this liberality would be urged by your lordship as a proof of

their enlistment, nothing would have been more easy to obviate the suspicion than to return them in rags as they came.

I am not, however, disposed to withdraw my former admission, that in the original proceedings there is evidence of some connivance on the part of one or more of the petty officers of the Kearsarge in the endeavor to enlist these men in the service of the United States. That the first officer, Thornton, had any intention of the kind, I am constrained more seriously to doubt. I do not regard myself as possessed of authority to direct a pursuit of the investigation on this side of the Atlantic. But understanding it from your lordship's note to be the wish of her Majesty's government that further measures should be taken to ascertain the precise nature of the action of the suspected parties, and that they should be visited with suitable penalty if found guilty, I shall do myself the honor to communicate your wish for the consideration of my government. I do not doubt that the proper authority will direct further proceedings to be had, in order to arrive at the precise truth, and to give just satisfaction to your lordship in case of the proof of any offence.

I pray, &c.,

CHARLES FRANCIS ADAMS.

No. 6.

Earl Russell to Mr. Adams.

FOREIGN OFFICE, April 13, 1864.

SIR: I have the honor to acknowledge the receipt of your note of the 11th instant, relative to the proceedings of the officers of the United States steamer Kearsarge, in regard to the enlistment of British subjects for service on board that vessel.

I am, &c.,

RUSSELL.

Correspondence with Mr. Mason, commissioner of the so-styled Confederate States of America.—(In continuation of papers presented to Parliament in March, 1863.)

LIST OF PAPERS.

- No. 1. Mr. Mason to Earl Russell, March 2, 1863.—One enclosure.
- No. 2. Earl Russell to Mr. Mason, March 11, 1863.
- No. 3. Mr. Mason to Earl Russell, July 4, 1863.—Three enclosures.
- No. 4. Mr. Mason to Earl Russell, July 6, 1863.—One enclosure.
- No. 5. Earl Russell to Mr. Mason, July 8, 1863.
- No. 6. Earl Russell to Mr. Mason, July 10, 1863.
- No. 7. Mr. Mason to Earl Russell, July 16, 1863.—One enclosure.
- No. 8. Mr. Mason to Earl Russell, July 16, 1863.—Twelve enclosures.
- No. 9. Earl Russell to Mr. Mason, July 18, 1863.
- No. 10. Earl Russell to Mr. Mason, July 18, 1863.
- No. 11. Mr. Mason to Earl Russell, July 21, 1863.
- No. 12. Mr. Mason to Earl Russell, July 24, 1863.—One enclosure.
- No. 13. Earl Russell to Mr. Mason, July 25, 1863.
- No. 14. Mr. Mason to Earl Russell, July 29, 1863.—Seven enclosures.
- No. 15. Mr. Mason to Earl Russell, July 29, 1863.

- No. 16. Earl Russell to Mr. Mason, August 10, 1863.
 No. 17. Earl Russell to Mr. Mason, August 19, 1863.
 No. 18. Mr. Mason to Earl Russell, September 4, 1863.
 No. 19. Mr. Mason to Earl Russell, September 21, 1863.
 No. 20. Earl Russell to Mr. Mason, September 25, 1863.
 No. 21. Mr. Mason to Earl Russell, September 28, 1863.—Two enclosures.
 No. 22. Earl Russell to Mr. Mason, October 6, 1863.

No. 1.

Mr. Mason to Earl Russell.—(Received March 2.)

24 UPPER SEYMOUR STREET, PORTMAN SQUARE,
London, March 2, 1863.

MY LORD: I have the honor to transmit herewith to your lordship, as her Majesty's secretary of state for foreign affairs, a copy of a despatch from the secretary of state of the Confederate States of America, bearing date December 10, 1862, which was received by me on the 25th of February ultimo.

I do this, as your lordship will perceive, pursuant to instructions at the close of the despatch, directing me to furnish a copy to your lordship at the earliest moment.

I avail myself of the occasion to acknowledge the receipt of your lordship's letter of the 19th of February ultimo, in reply to mine of the 16th, respecting the blockade of the ports of Galveston and Charleston; and also of your lordship's letter of the 27th of February, in reply to mine of the 18th of that month.

The contents of both shall be communicated, as soon as practicable, to the government at Richmond.

I have, &c.,

J. M. MASON.

[Enclosure in No. 1.]

Mr. Benjamin to Mr. Mason.

DEPARTMENT OF STATE,
Richmond, December 11, 1862.

SIR: The recently published correspondence between the cabinets of France, Great Britain, and Russia indicates that the period is fast approaching when the dictates of reason, justice, and humanity will be respected, and our undoubted right to recognition as an independent nation be acknowledged. This recognition must, in the nature of things, be followed by a speedy peace.

The consideration of the effects which will be produced by this event on the commercial relations of the confederacy evokes deep solicitude, and it becomes my duty to communicate to you the instructions of your government on this important subject.

It is necessary to keep in view the very exceptional condition in which the present war has placed the Confederate States, in order to form a just estimate of the probable results of the renewal of peaceful relations between the belligerents.

The almost total cessation of external commerce for the last two years has produced the complete exhaustion of the supply of all articles of foreign growth and manufacture, and it is but a moderate computation to estimate the imports into the confederacy at \$300,000,000 for the first six months which will ensue after the treaty of peace. The articles which will meet with most

ready sale, (and in enormous quantities,) as soon as our country is open to commerce, are textile fabrics, whether of wool, cotton, or flax; iron and steel, and articles manufactured therefrom in all their varieties; leather and manufactures of leather, such as shoes, boots, saddlery, harness, &c.; clothing of all kinds; glass; crockery; the products of the vine, whether wines, brandies, or liquors; silk and all fabrics of silk; hats, caps, &c.; the large class of commodities known as "articles de Paris;" the "comestibles" of France, including not only preserved meats, game, and fish, but fruits, vegetables, confectionery, and sweetmeats; salt; drugs; chemicals; stationery; manufactures of brass, lead, pewter, tin; together with an innumerable variety of other articles of less importance.

In exchange for these importations, we have to offer the cotton, tobacco, and naval stores accumulated in the confederacy. They are of much larger value, even at half their present prices, than the amount of importations estimated as above for the first six months; indeed, I feel confident that at one-third the present European prices for our staples, we have exchangeable value for whole \$300,000,000 in these three enumerated articles. independently of rice, ship timber, and other productions of the field and forest. It must, however, be admitted as not improbable that a considerable quantity of these accumulated products may be destroyed by us, in order to avoid their seizure by the enemy, in such portions of the country as may become readily accessible to their gunboats, during the approaching season of high water. This necessity is imposed on us, as you are aware, by the fact that the troops of the United States pay no respect to private property, even of neutrals or non-combatants, but appropriate to themselves every article of movable property that they can reach in any part of the country.

Notwithstanding the exasperation of feeling against the United States now prevalent in the confederacy, no statesman can fail to perceive that on the restoration of peace the commercial intercourse between the present belligerents must necessarily be placed on such a basis as to accord to each other the same terms and conditions as are accorded to friendly nations in general. It is scarcely to be supposed that a treaty of peace could be concluded that should leave it optional to either party to wage a war of hostile tariffs, or special restrictions against the other; nor would such a state of things be desirable, if possible, for it would be manifestly incompatible with the maintenance of permanent peaceful relations. It must be conceded, therefore, that the final cessation of hostilities will open to the United States access to the markets of the confederacy, as free as that which may be conceded to European nations in general.

In view of this condition of affairs, it is not difficult to predict the probable results on the commerce of the confederacy, which will immediately be developed unless prevented by some counteracting influence:

1. The first consequence to be anticipated is that our land will be pervaded by agents of the northern merchants, who will monopolize those products of the south from which Europe has been so long debarred, and which are so needful to its prosperity. The cotton, tobacco, and naval stores of the south will become at once the prize of northern cupidity, and will only reach Europe after having paid heavy profits to these forestallers.

Nor will the amount of the profits exacted be the only loss entailed on Europe. The purchase of the raw material at lower cost would give to the manufacturers of New England an advantage over their European rivals much more important than the mere original excess of outlay to which the latter would be subjected.

2. Such are the necessities of our people, and so eager will be their desire to avail themselves of the first opportunity for procuring commodities which they have cheerfully foregone as long as privation was the price of liberty, that it will be nearly impossible to prevent the enormous demand for necessary supplies

from being satisfied almost exclusively by the north, which will avail itself of its close proximity to preoccupy so inviting a field of richly remunerative commerce.

3. The current of trade will thus, at the very outset of our career, continue to flow in its ancient channels, which will ever be deepened; and our commerce with Europe, instead of becoming direct, to mutual advantage, as we have for years desired, will remain tributary to an intermediary. The difficulty of diverting trade from an established channel has become proverbial, and in our case the difficulty would be enhanced by the causes just indicated.

These contingencies cannot be contemplated without deep concern. During the whole period of the existence of the southern States, their pursuits have been almost exclusively agricultural: they possess scarcely the semblance of a commercial marine, nor can they hope to acquire one sufficient for the exchange of their products till after the lapse of a number of years; and a still longer period must intervene before they can expect to provide by their own manufacture a supply of many articles of necessary consumption. In addition to the difficulties necessarily inherent, under any circumstances, in the task of creating the navigation and the manufactures required for a population of over ten millions of people, there exist in the south obstacles resulting from the education, habits, tastes, and interests of its citizens. For generations they have been educated to prefer agricultural to other pursuits, and this preference owes its origin to the fertility of their soil and the genial influences of their climate, which render those pursuits not only more attractive to their tastes, but more lucrative than those of the manufacturer or the seaman. It is certain, therefore, that for many years the carrying trade of the confederacy, both foreign and coastwise, will be conducted, and its supplies of manufactured articles will be furnished, by foreign countries in exchange for the products of its soil.

It is the most earnest desire of this government and people that a commerce so large and profitable as that which they tender to mankind shall not be monopolized by the United States, and that a direct trade with Europe shall furnish to us all articles the growth or manufacture of that continent. They are all well aware that, from proximity, the northern States possess a natural advantage over any European rival for much of our trade; but the value of their political independence would, in their estimation, be greatly impaired if the result of the war should leave them in commercial dependence, by giving to those States the additional enormous advantages arising out of the present exceptional condition of the south. Unless some preventive measures be adopted, the exchanges of the south for staples accumulated during the two years of the war will be practically effected during the first two months of peace, and will inure to the almost exclusive benefit of that power whose wicked aggressions have already entailed so much misery and distress, not only on ourselves, but on the rest of the civilized world.

It is scarcely possible to refrain from the reflection, that consequences so hostile to the interests of Europe, as well as our own, have been produced by a policy, on the part of certain European powers, in disregard of the plainest dictates of international law, as well as of implied promises to ourselves. If Europe had asserted its unquestioned right to resist a predatory cruise carried on against its commerce on 3,000 miles of our coast by the ships of the United States, under pretext of a blockade of our ports, we should not now be engaged in an effort to avert the disastrous effects to European interests which must be anticipated from the causes above pointed out. Our markets would not now be denuded of all supplies of European commodities, and, on the restoration of peace, the north would possess, in the competition for our commerce, none of the abnormal advantages which we now seek to neutralize. It is far from our purpose, in the expression of this view, to indulge in vain recrimination, but the suggestion is made in the hope that neutral nations will be induced, not only by a regard to their own interests, but by the higher obligations of justice and

duty, to co-operate in the endeavor to obviate any further ill effects of a policy which experience now justifies us in pronouncing to have been at least unwise.

What are the practical measures which can be devised for this purpose? What can be done to prevent consequences which we frankly avow would be considered by us as a national calamity, as well as a source of deep mortification? The difficulties are great, but not, perhaps, insurmountable, especially if you can succeed in exciting the solicitude of the court to which you are accredited, and awakening it to the magnitude of the interests of neutral nations involved in the subject. It is one which our position has forced upon our attention, and which it is not unnatural to suppose has been considered by us with more care than by those less intimately conversant with the state of our affairs on this side of the Atlantic. Without, therefore, restricting you as to the adoption of any other measures that may be proposed, or may occur to your mind, you are instructed to urge the different points which I now proceed to suggest:

1. In order to prevent the monopoly by the northern States of the accumulated staples now held by our people, no measure seems less objectionable, nor more appropriate, than to encourage the merchants of neutral nations to purchase in advance these products, and to leave them here in depot till the ports are opened. This course would already have been adopted to a very considerable extent, (as I am aware from numerous applications made to this department,) if the staples thus purchased could be guaranteed against destruction by the respective belligerents. The remedy for this seems to be very simple, and entirely within the reach of neutral powers, but they have hitherto, for reasons doubtless satisfactory to themselves, but which we are unable to conjecture, declined to adopt it.

The case stands thus. In the language of Mr. Phillimore, "There is no more unquestionable proposition of international law than the proposition that neutral states are entitled to carry on upon their own account, a trade with a belligerent." The United States, however, do not concern themselves with unquestionable propositions of international law, nor have they even affected, during the present war, to refrain from any exercise of power against neutrals which seemed to offer the slightest momentary advantage. General Butler still continues to imprison and rob indiscriminately foreign merchants and native citizens of New Orleans; and in no place where the forces of the United States penetrate is there a moment's hesitation in appropriating any neutral property to their use. This universal robbery by the enemy of all private property forced upon this government the necessity of destroying everything movable, as fast as it became exposed to imminent danger of pillage. In this state of the case the department was addressed by agents of foreign merchants, desirous of purchasing our staples, and storing them until peace should be restored, with the request that special instructions should be given to exempt from such destruction the property thus purchased. This government could have no possible motive for destroying neutral property, but every dictate of policy counselled, on the contrary, that we should protect it. We could not consent, however, that neutral property should be seized by the enemy and converted to its use; for we would thus have been supplying him with the means of continuing hostilities against ourselves. The effect of such action on our part may be readily illustrated. Cotton is worth at least \$200 a bale, in specie, in the United States, and not more than one-fifth of that sum in the confederacy. Thus, on the supposition that only 100,000 bales of cotton belonging to neutrals should be seized and appropriated by the United States, they would be provided with \$20,000,000 in specie, and if called on to respond in damages by neutral powers, would seek to escape responsibility, and perhaps succeed in so doing, by reimbursing to the neutral owners, after some years of diplomatic correspondence, the fifth of that sum, as being the value of

the cotton at the time and place of its seizure. The simplest instincts of self-defence required us to defeat such machinations ; and this department therefore made answer to the applications of neutral merchants, that this government would protect their property against destruction upon receiving any satisfactory assurance from their own governments that the property would be effectually protected against seizure and appropriation by the enemy, if it fell into his hands. This answer seems to have been submitted to the government of her Britannic Majesty by different British consuls, and to have elicited a reply, to which extensive publicity was given. This reply, dated the 10th of August, 1862, and signed by her Britannic Majesty's chargé d'affaires at Washington, is confined to an acknowledgment of the right of this government to act in the manner already mentioned, but omits giving to British subjects any assurance of protection against spoliation by the United States. No action on the subject has been taken by any other neutral power, if we are fully informed, and the whole matter seems *res integra*, so far as the present inquiry is concerned, for it is impossible to interpret the mere silence of the British cabinet on this point as an abandonment of the right of protecting British subjects against unlawful spoliation.

2. In order to prevent the United States from preoccupying, for their exclusive benefit the market for foreign merchandise which the south will present as soon as peace is declared, several suggestions occur.

It would, in the first place, seem not to be impracticable for the several European governments, pending the negotiations which must necessarily precede the final settlement of the terms of a treaty, to devise some means for communicating in advance, to their merchants, the assured conviction of an early renewal of commerce with the confederacy, and to encourage the formation in their West India colonies of large depots of the supplies known to be needed here ready for immediate introduction into the confederacy. Such measures, accompanied by the necessary arrangements for the speediest transmission to these depots of the news of the opening of commerce, would aid, to some extent, in the accomplishment of the objects desired. A large number of the merchant ships required for the transportation of these supplies would also meet with ready sale in the ports of the confederacy, especially if screw steamers suitable for future direct trade with Europe, or for government transport-ships. And the efficiency of this measure would be greatly increased if accompanied by the prompt operation of one or more lines of steamers between European and southern ports.

But the only effective remedy for preventing northern monopoly, and for neutralizing the unjust advantages which the United States, at the expense of Europe, would seek to secure from their violent infractions of international law, would be to place the confederacy in the same condition relative to foreign supplies as was occupied by it prior to the declaration of the blockade of the entire coast—a declaration which for the first time in history has been respected as legal by neutral powers. To this end, no measure seems better adapted than that proposed by his Imperial Majesty of France to the cabinets of Great Britain and Russia in the correspondence already adverted to. An armistice for six months, “during which every act of war, direct or indirect, should provisionally cease, on sea as well as on land,” would give to European powers that opportunity which justice demands for placing within the confederacy the supplies, and making the purchases that would long since have been effected but for the unjust interference by the United States with neutral rights, and thus enforce against that aggressive power the rule of universal equity that none shall be allowed to profit by their own misdeeds. Neutral nations would thus be reintegrated in the possession of their “unquestionable” right to “trade for their own account with a belligerent,” and upon the final cessation of hostilities would enter into the competition for our trade, then open to the

world, upon conditions approximating equality with the north, a result eminently desirable for the common interests of all, and scarcely attainable in any other manner.

Even if the blockade were continued during an armistice, the object desired could be greatly promoted. The cessation of our foreign commercial intercourse has been caused, not by the blockade of our ports, but by a general cruise on the coast against all neutral commerce, and the seizure of neutral vessels bound to points where not a blockading vessel was stationed. We have now numerous ports where there is not a single blockading vessel, but no neutral trader dares sail for them for fear of capture on the high seas by the federal cruisers. If Europe, even at this late date, would put an effectual stop to this outrage on its rights of trade with a belligerent, we would soon be so well supplied with her manufactures, and she would obtain so large a supply of our staples, as would effectually deprive the north of the profits it hopes to reap by the unprecedented acquiescence of all nations in its interdict against their trade with us. In the event of an armistice, the cruise against neutral vessels could not, of course be continued, even if the blockade were respected in ports where a blockading force is stationed.

You are instructed to furnish a copy of this despatch to her Britannic Majesty's secretary of state for foreign affairs at the earliest moment.

I have, &c.,

J. P. BENJAMIN.

No. 2.

Earl Russell to Mr. Mason.

FOREIGN OFFICE, *March 11, 1863.*

SIR: I have the honor to acknowledge the receipt of your letter of the 2d instant, enclosing a copy of a despatch signed by Mr. Benjamin, and dated Richmond, December 11, 1862, and I request you will accept my thanks for this communication.

I am, &c.,

RUSSELL.

No. 3.

Mr. Mason to Earl Russell.—(Received July 6.)

24 UPPER SEYMOUR STREET,
Portman Square, July 4, 1863.

MY LORD: The newspaper slip which I have the honor to enclose herewith, marked No. 1, contains what purports to be the copy of a despatch from the secretary of state of the Confederate States, addressed to me as the commissioner of those States at London, dated on the 6th of June ultimo. It is taken from one of the public journals of London published within the last two days, and (as you will see from the introductory note) was transferred from a newspaper published at Richmond, Virginia, on the 12th of the same month.

I do not doubt that it is a genuine paper, and as it refers to the action of the confederate government on a subject that may be interesting to the government of her Majesty, I have thought it best to send it to you at once in the informal shape in which it has come before me.

None of the documents referred to in the despatch were published in the

newspaper from which I have taken it, but from another, published yesterday, I have taken the enclosed, marked No. 2, which show from their dates and import that they are the documents designated in the despatch by the letters C and D.

You will see that I am instructed by the president to communicate to your lordship a copy of this despatch and of the documents accompanying it, which I will have the honor to do when they shall arrive.

I have, &c.,

J. M. MASON.

[For enclosure 1 in No. 3, newspaper extract, see "North America, No 13, (1864,)" p. 6-8.]

[Enclosure 2 in No. 3, Mr. Benjamin to Consul Moore, June 5, 1863, *ibid.*, p. 2.]

[Enclosure 3 in No. 3, letters patent revoking Consul Moore's exequatur, *ibid.*, p. 2.]

No. 4.

Mr. Mason to Earl Russell.—(Received July 6.)

24 UPPER SEYMOUR STREET,
Portman Square, July 6, 1863.

MY LORD: I have the honor to transmit herewith an original protest made by the master and crew of the confederate steamship Margaret and Jessie, transmitted to me by the commercial agent of the Confederate States at Nassau. It sets forth that this steamer, laden with cotton and a large number of passengers, whilst on her voyage from Charleston, South Carolina, to Nassau, and near the island of Eleuthera, a British possession in the Bahamas, was chased by a United States war steamer, believed to be the Rhode Island; that the Margaret and Jessie continued on her course toward the said island thus pursued, and fired at from time to time, until she had approached within 300 yards of the beach; fearing to run nearer, she changed her course, coasting along the island at the distance of from 300 to 500 yards from the shore.

That, notwithstanding the confederate ship was thus, beyond mistake or dispute, within British jurisdiction, the United States war vessel continued the pursuit, having changed her course to conform to that of the confederate steamer, continuing to fire shot and shell until the latter was struck, disabled, and sunk; at the time of which occurrence the Rhode Island was so near to the shore that a number of shot from her struck the shore inland, cutting the trees and ploughing up the soil.

I am further informed by our commercial agent that measures were to be taken by him to procure the testimony of many residents of the island who witnessed the affair, and which, if received, I shall have the honor to transmit to your lordship. In the mean time the protest herewith will be sufficient, at least, to lay the foundation of proper inquiry on the part of her Majesty's government, and, if the facts are found correctly stated, will establish a claim for adequate compensation to the owners and others who have sustained injury by this outrage.

I have, &c.,

J. M. MASON.

[Enclosure in No. 4.]

*Protest of the master and crew of the confederate steamship Margaret and Jessie.***BAHAMA ISLANDS, New Providence.**

By this public instrument of declaration and protest be it known and made manifest that on Tuesday, the 2d day of June, in the year of our Lord 1863, personally came and appeared before me, Bruce Lockhart Burnside, a notary public by lawful authority appointed, duly admitted and sworn, residing and practicing in the city of Nassau, in the island of New Providence, William Wilson, the master of the steamship Margaret and Jessie, of and belonging to the port of Charleston, in the State of South Carolina, Confederate States of America, and caused a protest to be duly noted before me, the said notary, against the acts and deeds of the captain or other officer in charge of a certain vessel-of-war of and belonging to the United States of America, occasioning injury to the said steamship Margaret and Jessie, and thereby entailing loss and damage to the owners and others interested in the said steamship and the cargo on board of her laden. And now on this day, being Friday, the 5th day of June, in the year aforesaid, again came and appeared the said William Wilson, the master, and James Forbes, first mate, Christopher Cowper, second mate, John Fitzgerald, third mate, Thomas Plane, purser, John Blackley, carpenter, Robert Warner Lockwood, pilot, Octavius Henry Dorsett, coasting pilot, Peter Skues, chief engineer, John Scott, second engineer, Thomas Russell, third engineer, Samuel Johnson, fourth engineer, John McLean, fireman, and Joseph Gilbraith, fireman, of and belonging to the said steamship, who, of their own free will and voluntary accord, did solemnly declare, such declaration being made in pursuance of the laws of the Bahamas for substituting a declaration in lieu of an oath in certain cases.

That these declarants, and the rest of the crew of the said steamship Margaret and Jessie, sailed in and on board of her on Wednesday, the 27th day of May last past, from the port of Charleston, in the State of South Carolina, one of the Confederate States of America, with a cargo consisting of 730 bales of cotton, and with 16 passengers, bound on a voyage to Nassau, in the island of New Providence, one of the said Bahama islands, the said steamship, at the time of her departure as aforesaid, being tight, staunch, strong, and seaworthy, and in every respect fitted, equipped, manned, and found for the prosecution of the aforesaid voyage.

That nothing material occurred. They encountered heavy weather until the forenoon of Saturday, the 31st day of May, about 10 a. m., civil time, the Margaret and Jessie then being about ninety miles to the north and east of the island of Abaco, one of the Bahama islands, and then steering a south-by-west course to make the land of Eleuthera, also one of the Bahama islands, the territory of her Majesty the Queen of Great Britain, then distant about twenty-five miles, a steamship was observed to the leeward of the Margaret and Jessie, heading eastwardly across her stern. That about a quarter of an hour after the said steamship had been first observed by the parties on board of the Margaret and Jessie, she was seen to change her course and give chase to the Margaret and Jessie, the master of which, suspecting that the other vessel was a vessel-of-war of the United States, and that the intention was to make a prize of his vessel, ordered her to be put at full speed for the land of Eleuthera, then being a part of the neutral territory of her Britannic Majesty the Queen of England.

That the said vessel-of-war continued to chase the Margaret and Jessie, but at no time succeeded in approaching nearer to her than four miles until, about 12½ o'clock noon of that day, the Margaret and Jessie being distant from the

mainland of Eleuthera, which she was then fast approaching, about five miles, and the vessel-of-war distant astern of the Margaret and Jessie about four miles, a shot was fired from the vessel-of-war which fell short of the Margaret and Jessie; that the Margaret and Jessie was still run direct for the land, and arrived within the territorial limit of three miles shortly after, in the mean time the vessel-of-war firing shot after shot at her.

That from the time the Margaret and Jessie arrived within such territorial limit as aforesaid, the Margaret and Jessie being hemmed in by the land, the vessel-of-war was enabled to approach nearer to her, and the Margaret and Jessie was consequently taken to within 300 yards of the shore.

That from the time the Margaret and Jessie arrived within such territorial limit as aforesaid until she was taken to within such distance of 300 yards from the land as before mentioned, no cessation whatever was made in the discharge from the war-vessel of shot and shell, many of which passed over the Margaret and Jessie, and struck and exploded upon the land which lay within her range.

That the steamship Margaret and Jessie having arrived within the distance of 300 yards as aforesaid, her course was at once changed to prevent her grounding on the rocks, and she was coasted along the land in a westwardly direction, keeping within that distance from the land, notwithstanding which no cessation was made in the discharge at her of shot and shell from the war-vessel, which approached to within 500 yards of the Margaret and Jessie, and coasted along with her for an hour and a half, incessantly discharging shot, shell, and what appeared to these declarants to be grape and canister.

That the Margaret and Jessie, from her close proximity to the land, took the bottom on several occasions, and many of the shot and shell discharged at her passed over and struck against the land of Eleuthera; that at about thirty minutes past 3 p. m., the Margaret and Jessie then being not over 300 yards from the beach, a seven-inch spherical shell, discharged from the vessel-of-war, struck her on the starboard side, just below the water-line, and entered her boiler, causing the steam to escape, thereby severely injuring one of her engineers, and the water to flow into the ship, and the said declarant, William Wilson, then at once ordered the wheel to be put astarboard, but before the order could be obeyed the ship ran upon the ground and filled with water not 300 yards from the beach, the position being a little to the east of a point of land known as James's Point, on the north side of the island of Eleuthera, one of the Bahama islands.

And the declarants did further declare that whilst the said merchant-ship Margaret and Jessie and the said vessel-of-war of the United States of America were both within the territorial jurisdiction of her Majesty the Queen of Great Britain, as hereinbefore detailed, they, the said parties on board of the said vessel-of-war, then being officers in the naval service of the United States of America, in violation of the municipal laws of the said territory of her Majesty the Queen, did feloniously discharge against the said parties, then being on board of the said steamship Margaret and Jessie, certain cannons then loaded with gunpowder and shot, shell, shrapnell, and other deadly missiles, with intent thereby the said parties on board of the said merchant-ship Margaret and Jessie, or some of them, to kill and murder.

That from the time the said vessel-of-war entered within the distance of three miles from the land until the time that a shot from her sunk the Margaret and Jessie, as before set forth, the American ensign was flying at her main peak, she being a brig-rigged steam-vessel propelled by side-wheels, with a beam-engine above the deck; that when a shot propelled from a gun on board of her struck the Margaret and Jessie, she, the said war-vessel, was distant from the mainland of Eleuthera not 500 yards; but so soon as it was observed by the parties on board of the war-vessel that the Margaret and Jessie had been driven ashore and sunk, the vessel-of-war was headed to sea, and having proceeded to

the distance of about a mile from where the Margaret and Jessie lay, she, the vessel-of-war, was brought to anchor, and two armed boats despatched to the Margaret and Jessie, which rowed around her; in the said boats were officers in the uniform of the navy of the United States; and this declarant, the said James Forbes, inquired of one of the officers what ship-of-war that was, and was answered that it was the United States vessel-of-war Savannah, but these declarants believe that in truth and in fact the vessel-of-war was the United States vessel-of-war Rhode Island, and not the Savannah.

And these declarants did further declare that the master and crew of the said steamship, with the passengers, upon observing the armed boats proceeding for the steamship, all quitted her and landed on the shore. That shortly after parties of wreckers from inland came down, and the said steamship was given up to them to work in endeavoring to save the cargo, and, if possible, to get her off; that the said parties immediately commenced working, and, with the aid and assistance of others who subsequently arrived at the ship in wrecking-vessels, succeeded, after great exertions, in discharging the cargo, and in pumping the water from the said steamship, after which she was floated off, and in their charge he, the declarant, the said Captain Wilson being also on board, brought to this port of Nassau, the passengers and crew having been brought to this port of Nassau in the wrecking-vessels, they, the said wreckers, claiming salvage remuneration for their services to the said ship and her cargo.

And the said declarants did further declare, that from the time the said steamship quitted the said port of Charleston until she was sunk as aforesaid, within the jurisdiction of her Britannic Majesty, by a vessel-of-war of the United States, everything was done by the master and all on board to conduct her in safety to the port of her destination, and they attribute the sinking of the said steamship, and her stranding upon the island of Eleuthera, to the act of the parties on board of the said vessel-of-war of the United States, whilst both of such vessels were within the territorial jurisdiction of her Majesty the Queen, in exercising acts of hostility against the said merchant steamship Margaret and Jessie, and feloniously attempting to kill and murder the persons on board of her, she then being not 300 yards from the land; and to the fact of a shell having been shot through the side of the said steamship from the said vessel-of-war when such last-mentioned vessel was not 500 yards from the land.

WM. WILSON, *Master.*

JAMES FORBES, *Chief Mate.*

CHRISTOPHER COWPER, *Second Mate.*

J. FITZGERALD.

THOMAS PLANE, *Purser.*

JOHN BLACKLEY, *Carpenter.*

ROBERT WARNER LOCKWOOD, *Pilot.*

OCTAVIUS H. DORSETT, *Coasting Pilot.*

PETER SKUES, *Chief Engineer.*

JOHN SCOTT, *Second Engineer.*

THOMAS RUSSELL, *Third Engineer.*

SAMUEL JOHNSON, *Fourth Engineer.*

JOHN McLEAN.

JOSEPH ^{his} + GILBRAITH.
mark.

Wherefore the said master has desired me, the said notary, to protest, and I do by these presents solemnly and formally protest and declare against the acts and deeds of the persons on board of the said vessel-of-war, and against all and every act, matter, and thing occasioning, as aforesaid, loss and damage to the said steamship, to the intent that it may be submitted unto, suffered, and borne by those to whom it shall of right belong, or in anywise concern.

In testimony whereof, the said declarants have hereunto set their hands, and I, the said notary, my hand and seal notarial, this 5th day of June, in the year of our Lord 1863.

B. L. BURNSIDE, *Notary Public.*

BAHAMA ISLANDS, *New Providence.*

To all to whom these presents shall come: I, Bruce Lockhart Burnside, a notary public, by lawful authority appointed, duly admitted and sworn, residing and practicing in the city of Nassau, in the island of New Providence, do hereby certify the foregoing to be a true copy of a protest duly made before me, the said notary, by the master and crew of the confederate merchant steamship Margaret and Jessie, as the same remains of record in my official notarial record-book, page 153 to page 160.

In faith and testimony whereof, I have placed and affixed my hand and seal notarial this 6th day of June, in the year of our Lord 1863.

B. L. BURNSIDE, *Notary Public.*

BAHAMA ISLANDS, *New Providence.*

To all to whom these presents shall come: I, Charles Rogers Nesbitt, esq., colonial secretary of the Bahama Islands, do hereby certify that Bruce Lockhart Burnside, who attests, as a notary public, the protest hereto attached, is a duly qualified notary public, and that all faith and credit is and ought to be given to his acts and deeds as such.

In witness whereof, I have hereunto set my hand this 6th day of June, in the year of our Lord 1863.

C. R. NESBITT, *Colonial Secretary.*

BAHAMA ISLANDS: By his excellency Charles John Bayley, esq., companion of the most honorable Order of the Bath, governor and commander-in-chief in and over the said islands, chancellor, vice-admiral, and ordinary of the same.

To all to whom these presents shall come, greeting: Be it known that the honorable Charles Rogers Nesbitt, esquire, by whom the annexed certificate is subscribed was, on the day of the date thereof, and now is, the colonial secretary for the said Bahama Islands; therefore all due faith and credit are and ought to be had and given to the said annexed certificate.

O. J. BAYLEY.

In testimony whereof, I have caused the seal of the said islands to be hereunto affixed, at Nassau, New Providence, this 6th day of June, A. D. 1863, and in the twenty-sixth year of her Majesty's reign.

By his excellency's command,

C. R. NESBITT, *Colonial Secretary.*

No. 5.

Earl Russell to Mr. Mason.

FOREIGN OFFICE, *July 8, 1863.*

SIR: I have the honor to acknowledge the receipt of your letter of the 4th instant and its enclosures, relative to the position of Mr. G. Moore, her Majesty's consul at Richmond.

I am, &c.

RUSSELL.

No. 6.

*Earl Russell to Mr. Mason*FOREIGN OFFICE, *July 10, 1863.*

SIR: I have the honor to acknowledge the receipt of your letter of the 6th instant, enclosing an original protest made by the master and crew of the steamer *Margaret and Jessie*, with regard to the damage sustained by that vessel from being fired into by a United States vessel-of-war.

A copy of this protest has also reached her Majesty's government through other sources, and they learn from Lord Lyons, who has been in communication with the United States government on the subject, that he has been assured by Mr. Seward that if it shall appear on inquiry that any act of hostility or power was committed on the occasion in question within the marine jurisdiction of Great Britain, the act will be disavowed, and redress be promptly given.

Her Majesty's government will therefore await the result of that inquiry.

I am, &c.,

RUSSELL.

No. 7.

Mr. Mason to Earl Russell.—(*Received July 16.*)24 UPPER SEYMOUR STREET,
Portman Square, July 16, 1863.

MY LORD: I have the honor to transmit herewith a list of vessels arriving at the port of Nassau (Bahamas) from ports alleged to be blockaded in the Confederate States of America, from the 18th of July, 1862, to the 2d of June, 1863, being 102 in number.

This list was sent to me by the commercial agent of the Confederate States at Nassau, and, besides the minuteness of his description, is entitled to be received as an authentic document.

I have no instructions to make any new communication to your lordship on the subject of the alleged blockade, but I desire to place the document on the files of the foreign office as part of the history of the occasion, interesting certainly to my government, and perhaps to the government of her Majesty.

I have, &c.,

J. M. MASON.

[Enclosure in No. 7.]

Names of vessels arrived at the port of Nassau, N. P., from Confederate States.

Date of arrival.	Name and description.	Where from.	Cargo.
1862.			
July	18 Sloop	Wilmington, N. C.	Cotton.
	21 Sloop	St. John, Fla.	Do.
	25 Steamship	Charleston, S. C.	Cotton and turpentine.
	25 Boat	Florida.	Turpentine.
	25 Boat	Jacksonville, Fla.	Cotton and turpentine.
	26 Steamer	A port in Georgia	Do.
August	28 Schooner	Charleston, S. C.	Turpentine.
	6 Schooner	A port in Georgia	Do.
	6 Schooner	Wilmington, N. C.	Do.
	19 Sloop	A port in Georgia	Do.
September	2 Steamship	Charleston, S. C.	Cotton.
	4 Steamer	Wilmington, N. C.	Do.
	16 Sloop	Florida	Do.
	25 Schooner	Wilmington, N. C.	Cotton and turpentine.
October	26 Steamship	Charleston, S. C.	Cotton.
	3 Schooner	do	Turpentine.
	6 Schooner	do	Do.
	6 Schooner	Wilmington, N. C.	Cotton and turpentine.
	6 Sloop	Charleston, S. C.	Turpentine.
	7 Schooner	Savannah, Ga.	Cotton.
	7 Schooner	A port in North Carolina.	Cotton and turpentine.
	8 Steamer	Wilmington, N. C.	Do.
	14 Schooner	A port in Georgia	Cotton.
	14 Schooner	do	Do.
November	5 Steamer	Wilmington, N. C.	Do.
	21 Steamship	Charleston, S. C.	Do.
	21 Steamship	do	Do.
	22 Sloop	do	Do.
	26 Schooner	do	Turpentine.
	27 Sloop	Florida	Cotton.
	27 Sloop	Savannah, Ga.	Cotton and resin.
December	2 Schooner	Wilmington, N. C.	Do.
	23 Schooner	do	Cotton and turpentine.
	23 Sloop	Charleston, S. C.	Cotton.
	23 Schooner	do	Turpentine.
	27 Schooner	Wilmington, N. C.	Cotton.
	30 Steamship	Charleston, S. C.	Do.
1863.			
January	2 Schooner	Savannah, Ga.	Do.
	5 Steamship	Georgetown, S. C.	Do.
	19 Steamship	Charleston, S. C.	Do.
	21 Sloop	do	Turpentine.
	26 Schooner	Beaufort, N. C.	Tar and resin.
	26 Steamship	Wilmington, N. C.	Cotton.
	27 Schooner	Charleston, S. C.	Turpentine.
	30 Schooner	Wilmington, N. C.	Cotton and turpentine.
	31 Steamship	Charleston, S. C.	Cotton.
	31 Schooner	Savannah, Ga.	Cotton and turpentine.
February	3 Sloop	do	Cotton.
	6 Sloop	Charleston, S. C.	Do.
	9 Steamship	do	Do.
	16 Steamship	do	Do.
	17 Steamship	do	Do.
	23 Steamship	do	Do.
	23 Steamship	do	Do.
	25 Steamship	do	Do.
	26 Sloop	do	Do.
	26 Schooner	do	Do.
	27 Schooner	do	Do.

Names of vessels arrived at the port of Nassau, &c.—Continued.

Date of arrival.	Name and description.	Where from.	Cargo.
March	5 Steamship	Wilmington, N. C.	Cotton.
	6 Schooner	Charleston, S. C.	Do.
	10 Steamship	do.	Do.
	13 Steamship	do.	Do.
	14 Steamship	do.	Do.
	16 Steamship	Wilmington, N. C.	Do.
	17 Steamship	do.	Do.
	17 Steamship	do.	Do.
	23 Steamship	Charleston, S. C.	Do.
	23 Steamship	do.	Cotton and tobacco.
	24 Sloop	Fernandina, Fla.	Cotton.
	27 Steamship	Wilmington, N. C.	Do.
	28 Steamer	Charleston, S. C.	Do.
	30 Sloop	do.	Do.
	28 Sloop	Wilmington, N. C.	Cotton and turpentine.
April	2 Schooner	Charleston, S. C.	Do.
	3 Sloop	do.	Do.
	6 Steamship	do.	Do.
	8 Schooner	North Carolina.	Do.
	10 Steamship	Charleston, S. C.	Cotton.
	16 Steamship	Wilmington, N. C.	Cotton and turpentine.
	16 Schooner	Louisiana.	Turpentine.
	20 Steamship	Wilmington, N. C.	Cotton.
	22 Steamship	Charleston, S. C.	Do.
	24 Steamship	do.	Do.
May	24 Steamship	do.	Do.
	28 Steamship	Wilmington, N. C.	Do.
	29 Schooner	Charleston, S. C.	Do.
	7 Schooner	Savannah, Ga.	Do.
	9 Steamship	Charleston, S. C.	Do.
	9 Steamship	do.	Do.
	10 Steamship	do.	Do.
	10 Steamship	do.	Do.
	13 Steamship	Wilmington, N. C.	Do.
	13 Steamship	Charleston, S. C.	Do.
	19 Steamship	do.	Do.
	22 Steamship	Wilmington, N. C.	Do.
	23 Schooner	Charleston, S. C.	Do.
	25 Steamship	Wilmington, N. C.	Do.
	25 Steamship	Charleston, S. C.	Do.
June	25 Sloop	Wilmington, N. C.	Cotton and turpentine.
	25 Schooner	do.	Cotton and lumber.
	26 Steamship	Charleston, S. C.	Cotton.
	2 Steamship	do.	Do.

No. 8.

*Mr. Mason to Earl Russell.—(Received July 16.)*24 UPPER SEYMOUR STREET,
Portman Square, July 16, 1863.

MY LORD: I had the honor, with my letter of the 10th July instant, to transmit to your lordship the protest of the master and crew of the confederate steamship *Margaret and Jessie*, and at the same time to inform your lordship that further testimony was expected in regard to the affair referred to in the protest, which, when received, should in like manner be transmitted to your lordship.

I have now the honor to enclose herewith twelve affidavits made by passengers on board the confederate steamer, and by residents of the island of Eleuthera, in everything confirming the declarations made in the protest. They have just been received from the commercial agent of the Confederate States at Nassau, who informs me that copies of the same documents were transmitted by the same opportunity (the mail-steamer *La Plata*, just arrived) to the Duke of Newcastle, sent, as I am informed, by the authorities at Nassau.

I have, &c.,

J. M. MASON.

[Enclosure 1 in No. 8.]

Declaration of Theodore Cavillier.BAHAMA ISLANDS, *Eleuthera* :

Be it remembered that on this 4th day of June, in the year of our Lord 1863, personally came and appeared before me, Ormond Drimmie Malcolm, notary public, by lawful authority appointed, duly admitted and sworn, residing and practicing in the city of Nassau, in the island of New Providence, one of the said Bahama islands, Theodore Cavillier, of James's Point, in the island of Eleuthera, one of the said Bahama islands, planter, who of his own free will and accord did solemnly declare (such declaration being made in pursuance of the laws of the Bahama islands made for substituting a declaration in lieu of an oath in certain cases) in manner following, that is to say :

I live at a settlement called James's Point, on the island of Eleuthera, one of the Bahama islands. On Saturday, the 30th day of May last, I was out in a boat fishing on the southern side of the settlement. The settlement is bounded on the north and south by the sea, and the distance across—that is, from the north to the south—is about two miles. While I was fishing I heard the reports of several guns; I immediately went on shore on the southern side of the settlement, proceeded to a hill nearly over to the northern side, and climbed up a tree, in order that I might see the vessel from which I supposed the guns were being fired. On looking out to the sea I saw two steamers; one of them, having paddle-boxes, was steering down outside of a reef, which is about three or four hundred yards from the shore, and the other, without paddle-boxes, also steaming down outside of the reef, about five or six hundred yards from the first steamer. The steamer furthest out was firing at the inner one; I could see the smoke come from her side, and hear the report of the guns as they went off. She would fire first from one side a broadside, and then turn and fire from the other side. I could see the shot from these guns fall on the land about three hundred yards from where I was up the tree. I was about half a mile from the settlement. On seeing the shot fall so near, I jumped from the tree, ran to the southern shore and got into my boat to come home. While I was coming down

to my house in the boat, I heard a gun go off in the direction of the two steamers and a cannon-ball passed over my head and fell in the sea about thirty yards from the boat in which I was. I fell down in the boat from the shock. On Saturday evening, after I came home, I went over to the northern side of the settlement, on the beach. I saw a steamer on shore on the reef, and one lying to about five or six hundred yards from the one on the reef. They were the same steamers that I had seen running down outside in the morning, when I was up the tree. I did not stay long on the beach, but soon returned home. One steamer that was lying-to had an American flag flying. I do not know when she left.

THEODORE CAVILLIER, his + mark.

Declared to before me, this 4th day of June, A. D. 1863.

ORMOND D. MALCOLM, *Notary Public*.

BAHAMA ISLANDS, *New Providence*.

To all to whom these presents shall come: I, Ormond Drimmie Malcolm, notary public, by lawful authority appointed, duly admitted and sworn, residing and practicing in the city of Nassau, in the said island of New Providence, do hereby certify that the annexed paper writing is a true copy of a notarial declaration made before me by Theodore Cavillier, therein named, of the island of Eleuthera, as the same appears of record in my notarial register, book A, pages 13 to 16.

In testimony whereof, I have hereunto set my hand and seal notarial, the 6th day of June, in the year of our Lord 1863.

ORMOND D. MALCOLM, *Notary Public*.

[Enclosure 2 in No. 8.]

Declaration of Robert C. Fonte and Jocy Foreman.

BAHAMA ISLANDS, *New Providence*.

Know all men by these presents, that on the 6th day of June, in the year of our Lord 1863, before me, Bruce Lockhart Burnside, a notary public, by lawful authority appointed, duly admitted and sworn, residing and practicing in the city of Nassau, in the island of New Providence, personally came and appeared Robert C. Fonte, at present of the city of Nassau, in the island of New Providence, gentleman, who did solemnly declare, such declaration being made in pursuance of the laws of Bahamas for substituting a declaration in lieu of an oath in certain cases:

That he, the declarant, was a passenger on board the steamship Margaret and Jessie which sailed from the port of Charleston on the 27th day of May last, bound for this port of Nassau.

That on the morning of Saturday, the 30th, a steam vessel-of-war gave chase to the Margaret and Jessie, and she was run for the land of Eleuthera, one of the Bahamas islands, in the territory of her Majesty the Queen of Great Britain, and about half past twelve noon, the Margaret and Jessie being then distant from the land of the island of Eleuthera about five miles, with the vessel-of-war astern distant about four miles, the latter vessel opened fire upon her with shot and shell. That the Margaret and Jessie was still headed for the land, the war-vessel continuing in pursuit, incessantly discharging shot and shell which fell thickly over and around the Margaret and Jessie until she arrived within five hundred yards of the beach, when, to prevent her going upon the land, her course was changed, and she was headed westwardly, coasting and skirting the land at

a distance of between four and five hundred yards from it; that she thus continued for a period of an hour and three-quarters, during all which time the Margaret and Jessie never was further than five hundred yards from the land; the vessel-of-war continued the chase, being to the distance of about a mile from the land, and discharging shot and shell, by broadsides, which fell thickly around the vessel, and many of which passed over her and struck the land, and so near during all this latter time was the Margaret and Jessie kept to the shore, that she took the ground several times in passing over a reef which lies a short distance from the land.

That eventually a shell shot from the vessel-of-war struck the Margaret and Jessie, she then being not further than four hundred yards from the land, and passed through into her boiler, which so disabled her that she within a minute of time took the ground and filled with water not over four hundred yards from the beach, and the passengers and crew, fearing that boats would board from the vessel-of-war, quitted the vessel and went to the shore; and shortly afterwards two boats from the vessel-of-war quitted her and rowed round the Margaret and Jessie as she lay ashore, and then returned to their ship, in which boats were officers dressed in the uniform of the United States navy.

That the said steam vessel-of-war had flying from her main peak the United States ensign, she being brig-rigged, with a beam engine on deck, and propelled by side-wheels.

R. C. FONTE.

Declared to at Nassau this 6th day of June, A. D. 1863.

B. L. BURNSIDE, *Notary Public*.

BAHAMA ISLANDS, *New Providence*.

Know all men by these presents, that on the 6th day of June, in the year of our Lord 1863, before me, Bruce Lockhart Burnside, a notary public, by lawful authority appointed, duly admitted and sworn, residing and practicing in the city of Nassau, in the island of New Providence, personally came and appeared Ivey Foreman, at present of the city of Nassau, in the island of New Providence, gentleman, who did solemnly declare, such declaration being made in pursuance of the laws of Bahamas for substituting a declaration in lieu of an oath in certain cases:

That he, the declarant, was a passenger on board the steamship Margaret and Jessie which sailed from the port of Charleston on the 27th day of May last, bound for this port of Nassau. That having heard read over to him the annexed declaration of Robert C. Fonte, he can personally testify that everything therein contained is just and true, this declarant having been an eye-witness to all the occurrences therein detailed and set forth.

IVEY FOREMAN.

Declared to at Nassau this 6th day of June, A. D. 1863.

B. L. BURNSIDE, *Notary Public*.

BAHAMA ISLANDS, *New Providence*.

To all to whom these presents shall come: I, Bruce Lockhart Burnside, a notary public, by lawful authority appointed, duly admitted and sworn, residing and practicing in the city of Nassau, in the island of New Providence, do hereby certify the foregoing to be a full, just, and true copy of notarial declarations duly made before me, the undersigned notary public, by the declarants therein named, as the same remains of record in my official record book, page 143 to 147.

In witness whereof, I have hereunto set my hand and affixed my seal of office, at Nassau, this 9th day of June, A. D. 1863.

B. L. BURNSIDE, *Notary Public*.

[Enclosure 3 in No. 8.]

*Declaration of Charles M. Morris, H. B. Clairbon, and Charles K. King.***BAHAMA ISLANDS, New Providence.**

Know all men by these presents, that on this 6th day of June, in the year of our Lord 1863, before me, Bruce Lockhart Burnside, a notary public, by lawful authority appointed, duly admitted and sworn, residing and practicing in the city of Nassau, in the island of New Providence, personally came and appeared Charles M. Morris, at present of the city of Nassau, in the island of New Providence, gentleman, who did solemnly declare, such declaration being made in pursuance of the laws of the Bahamas for substituting a declaration in lieu of an oath in certain cases:

That he, the declarant, was a passenger on board the said steamship *Margaret and Jessie*, which sailed from the port of Charleston on the 27th of May last, bound for this port of Nassau; that on the morning of Saturday, the 30th, a steam vessel-of-war gave chase to the *Margaret and Jessie*, and she was run for the land of Eleuthera, one of the Bahama islands, in the territory of her Majesty the Queen of Great Britain, and about half past 12 noon, the *Margaret and Jessie* being then distant from the land of the island of Eleuthera about five miles, with the vessel-of-war distant about four miles, the latter vessel opened fire upon her with shot and shell. That the *Margaret and Jessie* was still headed for the land, the war-vessel continuing in pursuit, incessantly discharging shot and shell, which fell thickly over and around the *Margaret and Jessie*, until she arrived within five hundred yards of the beach, when, to prevent her going upon the land, her course was changed, and she was headed westwardly, coasting and skirting the land at a distance of between four and five hundred yards from it.

That she thus continued for a period of an hour and three-quarters, during all which time the *Margaret and Jessie* never was further than 500 yards from the land; the vessel-of-war continued the chase, being to the distance of about a mile from the *Margaret and Jessie*, and discharging shot and shell, by broadside, which fell thickly around the vessel, and many of which passed over her, and struck the land; and so near during all this latter time was the *Margaret and Jessie* kept to the shore that she took the ground several times in passing over a reef which lies a short distance from the land.

That eventually a shell shot from the vessel-of-war struck the *Margaret and Jessie*, she then being not further than 400 yards from the land, and passed through into her boiler, which so disabled her that she within a minute of time took the ground, and filled with water not over 400 yards from the beach; and the passengers and crew, fearing that boats would board from the vessel-of-war, quitted the vessel, and went to the shore; and shortly afterwards two boats from the vessel-of-war quitted her and rowed round the *Margaret and Jessie*, as she lay ashore, and then returned to their ship, in which boats were officers dressed in the uniform of the United States navy.

That the said steam vessel-of-war had flying from her main peak the United States ensign, she being brig-rigged, with a beam engine on deck, and propelled by side-wheels.

C. M. MORRIS.

Declared to at Nassau this 6th day of June, 1863.

B. L. BURNSIDE, *Notary Public.***BAHAMA ISLANDS, New Providence.**

Know all men by these presents, that on this 6th day of June, in the year of our Lord 1863, before me, Bruce Lockhart Burnside, a notary public, by lawful authority appointed, duly admitted and sworn, residing and practicing in the

city of Nassau, in the island of New Providence, personally came and appeared Charles K. King and Henry B. Clairbon, at present of the city of Nassau, in the island of New Providence, gentlemen, who did solemnly declare, such declaration being made in pursuance of the laws of the Bahamas for substituting a declaration in lieu of an oath in certain cases :

That they, the declarants, were passengers on board the steamship Margaret and Jessie, which sailed from the port of Charleston on the 27th of May last, bound for this port of Nassau.

That having read over to them the annexed declaration of Charles M. Morris, they can personally testify that everything therein contained is just and true, these declarants having been eye-witnesses to all the occurrences therein detailed and set forth.

H. B. CLAIRBON.
CHAS. K. KING.

Declared to at Nassau the 6th day of June, A. D. 1863.

B. L. BURNSIDE, *Notary Public*.

BAHAMA ISLANDS, *New Providence*.

To all to whom these presents shall come: I, Bruce Lockhart Burnside, a notary public, by lawful authority appointed, duly admitted and sworn, residing and practicing in the city of Nassau, in the island of New Providence, do hereby certify the foregoing to be a full, just, and true copy of notarial declarations duly made before me, the undersigned notary public, by the declarants therein named, as the same remain of record in my official record-book, pages 138 to 142.

In witness whereof I have hereunto set my hand and affixed my seal of office, at Nassau, this 9th day of June, A. D. 1863.

B. L. BURNSIDE, *Notary Public*.

[Enclosure 4 in No. 8.]

Declaration of Jane Hanna.

BAHAMA ISLANDS, *Eleuthera*.

Be it remembered, that on this 4th day of June, in the year of our Lord 1863, personally came and appeared before me, Ormond Drimmie Malcolm, notary public, by lawful authority appointed, duly admitted and sworn, residing and practicing in the city of Nassau, in the island of New Providence, one of the said Bahama islands, Jane Hanna, of James's Point, in the island of Eleuthera, one of the said Bahama islands, who of her own free will and accord did solemnly declare (such declaration being made in pursuance of the laws of the Bahama islands made for substituting a declaration in lieu of an oath in certain cases) in manner following, that is to say :

I live at James's Point, in the island of Eleuthera. On Saturday, the 30th day of May last, I was in my house at James's Point, when I heard guns firing from the sea. I looked out of the door of my house, the northern one.

The house is on a hill, about two miles from the shore, on the north side of the settlement. I can see the sea from the door. I saw a steamer passing up along the shore firing guns. I left my house and went on a hill near, when I saw another steamer ahead, at which the other was firing. I watched them for some time, when the inner steamer turned and came down. I then saw the one that had been firing also turn and commence to fire at her; several of the shot I saw fall on the land. I entered my house, when I heard the report of a gun, and something struck on the roof of the house. I looked out of the door, and

saw the steamer that had been firing before opposite my house, and clouded with smoke.

I went over to the northern shore in the evening, and saw one of the steamers on shore, and the other, the one that had been firing the guns, lying-to outside of her, with a flag flying. I do not know the flag, of what nation it was; it had red and white stripes.

JANE HANNA.

Declared to before me this 4th day of June, A. D. 1863.

ORMOND D. MALCOLM, *Notary Public.*

BAHAMA ISLANDS, *New Providence.*

To all to whom these presents shall come: I Ormond Drimmie Malcolm, notary public, by lawful authority appointed, duly admitted and sworn, residing and practicing in the city of Nassau, in the said island of New Providence, do hereby certify that the annexed paper writing is a true copy of a notarial declaration made before me by Jane Hanna, therein named, of the island of Eleuthera, as the same appears of record in my notarial register, book A, pages 22 to 23.

In testimony whereof I have hereunto set my hand and seal notarial the 6th day of June, in the year of our Lord 1863.

ORMOND D. MALCOLM, *Notary Public.*

[Enclosure 5 in No. 8.]

Declaration of Clinton Johnson.

BAHAMA ISLANDS, *New Providence.*

Know all men by these presents, that on the 6th day of June, in the year of our Lord 1863, before me, Bruce Lockhart Burnside, a notary public, by lawful authority appointed, duly admitted and sworn, residing and practicing in the city of Nassau, in the island of New Providence, personally came and appeared Clinton Johnson, of the island of Eleuthera, farmer, who of his own free will and voluntary accord did declare:

That he lives at a town known as "James's Cestern," on the south side of the island of Eleuthera, and on Saturday, the 30th day of May last, he heard the reports of cannon on the north side of the island; that he immediately went to the high land to the north of the town, and then saw two steamships, one in chase of the other, the outer ship discharging guns very rapidly at the ship that was nearest to the shore, both of which ships were approaching at full speed to the land.

That the ship nearest the land was an unarmed vessel, and the vessel chasing her was a vessel-of-war; the unarmed vessel having arrived within 300 yards of the beach changed her course and skirted along the land, at no time being 400 yards from it; that the vessel-of-war also changed her course, and having arrived within a distance of at most half a mile from the other ship, continued for at least an hour and a half to discharge without cessation shot and shell, which, from time to time, passed over the inner ship and struck and exploded upon the land.

That many of the shot so discharged as aforesaid fell within a distance of one hundred yards from the dwelling-houses in the town at James's Cestern, and caused great destruction among the trees and wood in the neighborhood; and the inhabitants of the town, fearing that their houses would be struck by the shot, and that some of them would be killed, quitted the town and took refuge under the hills until the firing had ceased.

his
CLINTON X JOHNSON.

Declared to at Nassau this 6th day of June, A. D. 1863.

B. L. BURNSIDE, *Notary Public*.

BAHAMA ISLANDS, *New Providence*.

To all to whom these presents shall come : I, Bruce Lockhart Burnside, a notary public, by lawful authority appointed, duly admitted and sworn, residing and practicing in the city of Nassau, in the island of New Providence, do hereby certify the foregoing to be a full, just, and true copy of a notarial declaration duly made before me, the undersigned notary public, by the declarant therein named, as the same remains of record in my official record-book, from page 161 to 163.

In witness whereof I have hereunto set my hand and affixed my seal of office at Nassau, in the island of New Providence, this 9th day of June, A. D. 1863.

B. L. BURNSIDE, *Notary Public*.

[Enclosure 6 in No. 8.]

Declaration of Thomas Mackey.

BAHAMA ISLANDS, *Eleuthera*.

Be it remembered, that on this 4th day of June, in the year of our Lord 1863, personally came and appeared before me, Ormond Drimmie Malcolm, notary public, by lawful authority appointed, duly admitted and sworn, residing and practising in the city of Nassau, in the island of New Providence, one of the said Bahama islands, Thomas Mackey, of James's Point, in the island of Eleuthera, one of the said Bahama islands, planter, who of his own free will and accord did solemnly declare (such declaration being made in pursuance of the laws of the Bahama islands made for substituting a declaration in lieu of an oath in certain cases) in manner following, that is to say :

On Saturday morning last, the 30th day of May past, I was out fishing on the southern side of the settlement called James's Point, on the island of Eleuthera. I am a resident of the settlement. I was out fishing with William Hanna, another resident of the settlement. Just as we started to return home, about 1 o'clock, I heard the reports of several heavy guns; the sound came from the northeast, across the island of Eleuthera. When the boat was about three miles from the settlement, and about half a mile from the shore on the southern side, I heard the report of another gun, and saw a cannon-shot come over and fall upon the land. We kept on in the boat, and when about half a mile from the settlement I again heard the report of a gun, and saw a cannon-shot fall in the water about sixty or seventy yards ahead of the boat in which we were, and very near a boat in which Theodore Cuvillier of the same settlement was.

After I landed from fishing I walked over to the beach on the northern side of the settlement, which beach is about two miles from the southern shore. Upon reaching there I saw a steamer on the reef, about four hundred yards from the shore. I also saw a steamer lying to outside of the reef, about six or seven hundred yards from it; she had an American flag flying. I could see guns on board of her run out through the port-holes. I saw two boats come from her and row around the steamer that was on shore. Officers were in these boats; they had gold lace around their caps. The steamer left about 8 o'clock that night.

THOMAS MACKEY.

Declared to before me this 4th day of June, A. D. 1863.

ORMOND D. MALCOLM, *Notary Public*.

BAHAMA ISLANDS, *New Providence.*

To all to whom these presents shall come: I, Ormond Drimmie Malcolm, notary public, by lawful authority appointed, duly admitted and sworn, residing and practicing in the city of Nassau, in the said island of New Providence, do hereby certify that the annexed paper writing is a true copy of a notarial declaration made before me by Thomas Mackey, therein named, of the island of Eleuthera, as the same appears of record in my notarial register-book A, pages 17 to 19.

In testimony whereof I have hereunto set my hand and seal notarial, the 6th day of June, in the year of our Lord 1863.

ORMOND D. MALCOLM, *Notary Public.*

[Enclosure 7 in No. 8.]

*Declaration of William Hanna.*BAHAMA ISLANDS, *Eleuthera.*

Be it remembered, that on this 4th day of June, in the year of our Lord 1863, personally came and appeared before me, Ormond Drimmie Malcolm, notary public, by lawful authority appointed, duly admitted and sworn, residing and practicing in the city of Nassau, in the island of New Providence, one of the said Bahama islands, William Hanna, of James's Point, in the island of Eleuthera, one of the said Bahama islands, farmer, who, of his own free will and accord, did solemnly declare (such declaration being made in pursuance of the laws of the Bahama islands made for substituting a declaration in lieu of an oath in certain cases) in manner following, that is to say:

I reside at James's Point, a settlement on the island of Eleuthera, one of the said Bahama islands. I am a farmer, but occasionally go to sea. The settlement of James's Point is bounded on the north and south by the sea, being about two miles in width, that is, from the north to the south.

On Saturday morning past, the 30th day of May last, I left my residence at James's Point in my boat on the south side of the settlement for the purpose of fishing; Thomas Mackey, a resident of the said settlement, went with me. After fishing for some time we started on our return home. When we were about a mile from the settlement I heard the reports of several heavy guns, the same seeming to be fired from a northeasterly direction. When about two hundred yards from the place where I intended to land in order to proceed to my house, I heard the report of a gun, and about five or six seconds after a cannon-shot went past the boat in which we were, and fell in the water, having come across the land in a northerly direction, about thirty yards from a boat in which one Theodore Cuvillier of the same settlement was.

I landed at the settlement about 3 o'clock on this day, Saturday, the 30th, and on landing was informed that a steamer was on shore on the northern side of the settlement. Upon hearing this I climbed to the roof of my house, which is about thirty-five feet from the ground, and on looking across the land to the northern side of the settlement I saw two steamers, one of them being ashore on a reef a few hundred yards from the shore, and the other lying to about three hundred yards from the one on shore, with an American flag flying from her main peak. The steamer on shore had no flag flying.

I then came down from the roof of my house, and proceeded, in company with several others, to the beach on the northern side of the settlement, where I found two ladies and several gentlemen, who had just landed from the steamer on shore on the reef. The captain, mates, and crew of the said steamer landed while I was there.

After I had been on the beach about two hours, two boats put off from the steamer with the American flag flying, and came to the steamer on shore, rowed around her, and then returned. Both of these boats had American flags in their sterns. An officer was in each boat, having gold lace on his cap and gold buttons on his coat. There were guns on board of the steamer with the American flag flying. I could see them run out through the port-holes in her side. I could plainly see the men moving about her decks. I should say she was about six or eight hundred yards from the shore. She remained in the position and place that I have described until dark. I did not notice when she left.

his
WILLIAM + HANNA.
mark.

Declared to before me this 4th day of June, A. D. 1863.

ORMOND D. MALCOLM, *Notary Public.*

BAHAMA ISLANDS, *New Providence.*

To all to whom these presents shall come: I, Ormond Drimmie Malcolm, notary public, by lawful authority appointed, duly admitted and sworn, residing and practicing in the city of Nassau, in the said island of New Providence, do hereby certify that the annexed paper writing is a true copy of a notarial declaration made before me by William Hanna, therein named, of the island of Eleuthera, as the same appears of record in my notarial register, book A, pages 9 to 12.

In testimony whereof, I have hereunto set my hand and seal notarial the 6th day of June, in the year of our Lord 1863.

ORMOND D. MALCOLM, *Notary Public.*

[Enclosure 8 in No. 8.]

Declaration of Charles Rutledge Burnside.

BAHAMA ISLANDS, *New Providence.*

Be it remembered, that on this 10th day of June, in the year of our Lord 1863, personally came and appeared before Ormond Drimmie Malcolm, notary public, by lawful authority appointed, duly admitted and sworn, residing and practicing in the city of Nassau, in the island of New Providence aforesaid, Charles Rutledge Burnside, of the city of Nassau, in the said island of New Providence, gentleman, who, of his own free will and accord, did solemnly declare (such declaration being made in pursuance of the laws of the Bahama islands for substituting a declaration in lieu of an oath in certain cases) in manner following, that is to say:

That he, the declarant, was, on the 4th day of June instant, at a town on the island of Eleuthera, known as "James's Cistern," in the vicinity of James's Point.

That he, the declarant, had heard that shot and shell, thrown from a vessel-of-war on the north side of the island, had struck the ground near to the town, and Samuel Mackey, a resident of the town, pointed out to him, at a distance of about 200 yards from the dwelling-houses in the town, trees which had been destroyed, and the marks on the earth and stones caused by the missiles which had struck them; that the declarant, whilst inspecting the spots pointed out by the said Samuel Mackey, picked up the smaller of the two pieces of shell

hereto attached, and Samuel Mackey also picked up, in the presence of this declarant, the other piece.

That both of such pieces remained in the possession of this declarant, and were by him delivered to the notary public to be attached to this declaration, which he, the notary, has done in declarant's presence.

C. R. BURNSIDE.

Declared to before me this 10th day of June, A. D. 1863.

ORMOND D. MALCOLM, *Notary Public.*

BAHAMA ISLANDS, *New Providence.*

To all to whom these presents shall come: I, Ormond Drimmie Malcolm, notary public, by lawful authority appointed, duly admitted and sworn, residing and practicing in the city of Nassau, in the island of New Providence, do hereby certify that the annexed paper writing is a true copy of a notarial declaration made before me by Charles Rutledge Burnside therein named, of the island of New Providence, as the same appears of record in my notarial register, book A, pages 24 and 25.

In testimony whereof, I have hereunto set my hand and seal notarial the 10th day of June, in the year of our Lord 1863.

ORMOND D. MALCOLM, *Notary Public.*

[Enclosure 9 in No. 8.]

Declaration of Samuel Mackey.

BAHAMA ISLANDS, *Eleuthera.*

Be it remembered, that on this 4th day of June, in the year of our Lord 1863, personally came and appeared before me, Ormond Drimmie Malcolm, notary public, by lawful authority appointed, duly admitted and sworn, residing and practicing in the city of Nassau, in the island of New Providence, one of the said Bahama islands, Samuel Mackey, of James's Point, in the island of Eleuthera, one of the said Bahama islands, planter, who, of his own free will and accord, did solemnly declare (such declaration being made in pursuance of the laws of the Bahama islands made for substituting a declaration in lieu of an oath in certain cases) in manner following, that is to say:

I am a planter, and reside at James's Point, in the island of Eleuthera, one of the Bahama islands. On Saturday, the 30th day of May last past, I was out fishing on the southern side of the settlement. The settlement is about two miles wide from north to south. While out fishing I heard the reports of several heavy guns from the northeast. On returning to the shore, being about three yards from it, I heard the report of a gun, and saw a cannon ball fall on the land in the middle of the settlement where the houses are built. I found a portion of the shot to-day in the place where I saw it fall.

his
SAMUEL + MACKEY.
mark.

Declared to before me this 4th day of June, A. D. 1863.

ORMOND D. MALCOLM, *Notary Public.*

BAHAMA ISLANDS, *New Providence.*

To all to whom these presents shall come: I, Ormond Drimmie Malcolm, notary public, by lawful authority appointed, duly admitted and sworn, residing and practicing in the city of Nassau, in the island of New Providence, do hereby

certify that the annexed paper writing is a true copy of a notarial declaration made before me by Samuel Mackey, therein named, of the island of Eleuthera, as the same appears of record in my notarial register, book A, pages 20 and 21.

In testimony whereof, I have hereunto set my hand and seal notarial the 6th day of June, in the year of our Lord 1863.

ORMOND D. MALCOLM, *Notary Public*

[Enclosure 10 in No. 8.]

Declaration of Laurence Thiescelin and Laurcel Thiescelin.

BAHAMA ISLANDS, *New Providence.*

Know all men by these presents, that on this 11th day of June, in the year of our Lord 1863, before me, Bruce Lockhart Burnside, a notary public, by lawful authority appointed, duly admitted and sworn, residing and practicing in the city of Nassau, in the island of New Providence, personally came and appeared Laurence Thiescelin, at present of the island of New Providence, gentleman, and Laurcel Thiescelin, at present of the island of New Providence, single woman, who did solemnly declare, such declaration being made in pursuance of the laws of the Bahamas for substituting a declaration in lieu of an oath in certain cases:

That these declarants are subjects of his Imperial Majesty Napoleon III, Emperor of the French, and are natives of the city of Paris in the Empire of France, but for some years past have resided at Mobile, in the State of Alabama, one of the States of America, known as the Confederate States of America.

That they sailed in and on board of the confederate merchant steamship *Margaret and Jessie*, on Wednesday the 27th day of May last past, from Charleston, South Carolina, as passengers for Nassau, on their way to France.

That on Saturday morning, about 10 o'clock, a vessel-of-war gave chase to the *Margaret and Jessie*, and continued to chase until about 12 o'clock, when the *Margaret and Jessie* had been brought to about five miles distant from the land of Eleuthera, within the jurisdiction of her Majesty the Queen of England; the war-vessel was then astern of the *Margaret and Jessie* about four miles, and commenced to fire shot and shell at her.

That the war-vessel continued to chase the *Margaret and Jessie*, and to fire shot and shell at her incessantly, until the latter vessel was taken within 300 or 400 yards of the shore of the island of Eleuthera aforesaid, the war-vessel coming in to the same shore within the distance of one mile, and coasting along with the *Margaret and Jessie*, and discharging shot and shell at her, many of which these declarants saw strike the land of Eleuthera. That during all the time before referred to, these declarants remained on deck, but the danger to life on board of the *Margaret and Jessie* being very great from the constant discharge of shell and other missiles which fell thickly around her, and it being evident that the intention of the parties on board the war-vessel was to kill and murder the persons then on board the *Margaret and Jessie*, they the declarants, Laurence Thiescelin and Laurcel Thiescelin, were persuaded by the male passengers who were with them in the *Margaret and Jessie* to take refuge in the cabin.

That at the time the said Laurence Thiescelin and Laurcel Thiescelin left the deck and went to the cabin, the said steamship *Margaret and Jessie* was not over 400 yards from the beach, and the war-vessel was not a mile distant from the *Margaret and Jessie*. That after these declarants went into the cabin the ship struck several times on the bottom, and they still heard the incessant discharge of cannon from the war-vessel.

That after they had been for some time in the cabin a shot struck the Margaret and Jessie, and almost immediately she ran upon the ground, and the declarants upon going to the deck found that the ship was on the ground not 400 yards from the beach.

And these declarants further declare that the parties on board the Margaret and Jessie, fearing that she would be boarded from the war-vessel, which had then anchored a short distance from them, immediately hastened to the shore, and immediately after armed boats were sent from the vessel-of-war, in which were officers in the naval uniform of the United States of America, which boats approached near to the Margaret and Jessie, rowed round her, and then returned to their ship.

And these declarants lastly declare that they verily believe and are convinced that the intention of the said parties on board the said vessel-of-war discharging shot and shell from guns on board that vessel at the Margaret and Jessie, when both such vessels were within the territorial jurisdiction of her Majesty the Queen, was none other than to kill and murder the parties or some of them then being on board the Margaret and Jessie.

THIESCELIN.

LAURCEL THIESCELIN.

Declared to at Nassau the 11th day of June, A. D. 1863.

B. L. BURNSIDE, *Notary Public.*

BAHAMA ISLANDS, *New Providence.*

To all to whom these presents shall come: I, Bruce Lockhart Burnside, a notary public, by lawful authority appointed, duly admitted and sworn, residing and practicing in the city of Nassau, in the island of New Providence, do hereby certify the foregoing to be a full, just, and true copy of notarial declarations duly made before me, the said notary, by the declarants therein named, as the same remains of record in my official record-book, pages 148 to 152.

In testimony whereof I have hereunto set my hand and affixed my seal of office at Nassau, this 11th day of June, A. D. 1863.

B. L. BURNSIDE, *Notary Public.*

[Enclosure 11 in No. 8.]

Declaration of Fenn Peck and M. M. Kerr.

BAHAMA ISLANDS, *New Providence.*

Know all men by these presents that on this 8th day of June, in the year of our Lord 1863, before me, Bruce Lockhart Burnside, notary public, by lawful authority appointed, duly admitted and sworn, residing and practicing in the city of Nassau, in the island of New Providence, personally came and appeared Fenn Peck, at present of the island of New Providence, master mariner, and Matthew Morris Kerr, also at present of the island of New Providence, merchant, who did solemnly declare, such declaration being made in pursuance of the laws of the Bahamas for substituting a declaration in lieu of an oath in certain cases:

That they sailed as passengers on board the steamship Margaret and Jessie, from Charleston, on the 27th of May last, bound to Nassau.

That on Saturday morning, when about twenty-five miles from the mainland of Eleuthera, one of the Bahama islands, a vessel-of-war gave chase to them, but that as the Margaret and Jessie was put at full speed for the land, the pursuing vessel did not gain upon her until about noon; the Margaret and Jessie was then distant from Eleuthera about five miles, and the war-vessel astern of

the Margaret and Jessie about four miles. She opened fire upon the Margaret and Jessie, but at first the shot fell short, but as the Margaret and Jessie neared the land and became hemmed in by it, the shot from the war-vessel, which had gradually neared the Margaret and Jessie, fell thickly around her; that the Margaret and Jessie was then taken to within four hundred yards of the shore, notwithstanding which the war-vessel, which had now approached to within a mile of her, continued to pour shot and shell, and what appeared to be grape, and canister, into the Margaret and Jessie.

That the Margaret and Jessie continued at such distance of four hundred yards for a period of an hour and a half at the very least, during all which time the war-vessel, which was not at any time a mile distant, continued incessantly discharging shot, shell, and what appeared to be grape and canister, at the Margaret and Jessie.

That during this latter time the Margaret and Jessie frequently took the ground until a spherical 7-inch shot struck her, which disabled her, causing her immediately to take the ground, fill with water and sink, she then being not four hundred yards from the beach—so near, in fact, that persons on the beach could converse with persons on board the said vessel.

That so soon as this occurred the vessel-of-war, which was at this time coasting along with the Margaret and Jessie, headed to sea, and having steamed out for a short time, came to anchor, and the parties on board the Margaret and Jessie observing that boats were about to be sent from her, and fearing that although within neutral territory they would be made prisoners, they quitted the Margaret and Jessie and landed on the shore, and armed boats were seen to quit the war-vessel and proceed towards the Margaret and Jessie.

That the said declarant Fenn Peck found that only eight minutes and a half elapsed from the time these armed boats quitted the war-vessel until they arrived at the Margaret and Jessie, and that in these boats were officers dressed in the uniform of the navy of the United States of America, and having rowed round the Margaret and Jessie they returned to the vessel-of-war, which remained at anchor until dark, after which she was no more seen.

FENN PECK.
M. M. KERR.

Declared to at Nassau this 8th day of June, A. D. 1863.

B. L. BURNSIDE, *Notary Public*.

BAHAMA ISLANDS, *New Providence*.

To all to whom these presents shall come: I, Bruce Lockhart Burnside, a notary public, by lawful authority appointed, duly admitted and sworn, residing and practicing in the city of Nassau, in the island of New Providence, do hereby certify the foregoing to be a full, just, and true copy of notarial declarations duly made before me, the undersigned notary public, by the declarants there named, as the same remains of record in my official record-book, from page 165 to 169.

In witness whereof I have hereunto set my hand and affixed my seal of office at Nassau, in the island of New Providence, this 9th day of June, A. D. 1863.

B. L. BURNSIDE, *Notary Public*.

[Enclosure 12 in No. 8.]

Declarations of Daniel Trigg and H. B. Littlepage.

BAHAMA ISLANDS, *New Providence*.

Know all men by these presents, that on this 6th day of June, in the year of our Lord 1863, before me, Bruce Lockhart Burnside, a notary public, by lawful

authority appointed, duly admitted and sworn, residing and practicing in the city of Nassau, in the island of New Providence, personally came and appeared Daniel Trigg and Hardin B. Littlepage, at present of the city of Nassau, in the island of New Providence, gentlemen, who did solemnly declare, such declaration being made in pursuance of the laws of the Bahamas for substituting a declaration in lieu of an oath in certain cases :

That they, the declarants, were passengers on board the steamship Margaret and Jessie which sailed from the port of Charleston on the 27th day of May last, bound for this port of Nassau.

That having heard read over to them the declaration of Robert C. Fonte, they can personally testify that everything therein contained is just and true, these declarants having been eye-witnesses to all the occurrences therein detailed and set forth, with the exception of the officers in the boats being in the uniform of the navy of the United States of America, which the said Daniel Trigg did not himself see.

DANIEL TRIGG.
H. B. LITTLEPAGE.

Declared to at Nassau, this 6th day of June, A. D. 1863.

B. L. BURNSIDE, *Notary Public*.

BAHAMA ISLANDS, *New Providence*.

To all to whom these presents shall come : I, Bruce Lockhart Burnside, a notary public, by lawful authority appointed, duly admitted and sworn, residing and practicing in the city of Nassau, in the island of New Providence, do hereby certify the foregoing to be a full, just, and true copy of notarial declarations duly made before me, the undersigned notary public, by the declarants therein named, as the same remains of record in my official record-book from page 163 to 165.

In witness whereof, I have hereunto set my hand and affixed my seal of office, at Nassau, in the island of New Providence, this 10th day of June, A. D. 1863.

B. L. BURNSIDE, *Notary Public*.

No. 9.

Earl Russell to Mr. Mason.

FOREIGN OFFICE, *July 18, 1863.*

SIR : I have the honor to acknowledge the receipt of your letter of the 16th instant, enclosing a list of vessels which had arrived at Nassau from American blockaded ports from the 18th of July, 1862, to the 2d of June, 1863.

I am, &c.,

RUSSELL.

No. 10.

Earl Russell to Mr. Mason.

FOREIGN OFFICE, *July 18, 1863.*

SIR : I have the honor to acknowledge the receipt of your letter of the 16th instant, enclosing twelve affidavits made by passengers on board the steamer Margaret and Jessie, respecting the sinking of that vessel by a shot from a United States man-of-war, and I beg leave to thank you for the communication of these papers.

I am, &c.,

Digitized by Google RUSSELL.

No. 11.

*Mr. Mason to Earl Russell.—(Received July 21.)*24 UPPER SEYMOUR STREET, PORTMAN SQUARE,
July 21, 1863.

MY LORD: I have the honor to inform your lordship that I have received to-day a despatch from the secretary of state at Richmond, dated the 12th of June ultimo, in which I am advised that the government of the Confederate States has been informed by Mr. Moore, late her Majesty's consul at Richmond, of the receipt by him of despatches from your lordship stating that the prisoner Hester, charged with murder at Gibraltar, on board the confederate steamer Sumter, had been sent on board her Majesty's ship Shannon, leaving Gibraltar on the 6th of May last, to Bermuda.

That the consent of the United States government would be asked for the passage through the blockade of the ship having the prisoner on board; and asking that arrangements should be made by the confederate authorities to receive him at whatever port the ship conveying him might arrive.

I am instructed by the secretary of state to inform your lordship that the government of the Confederate States would be prepared to receive the prisoner at any port of the confederacy where he may be delivered up; and that in the event of a refusal on the part of the United States to consent to the passage of the Shannon through the blockade, a naval officer of the confederacy would be sent to Bermuda, with authority to receive the prisoner, and to bring him into one of its ports in a vessel of the confederate government.

I am further instructed to renew to your lordship, as her Majesty's secretary of state for foreign affairs, the expression of the thanks of the confederate government for your lordship's considerate attention in the matter.

I avail myself of the occasion to inform your lordship that I have received, at the same time with the foregoing, the despatch of the 6th of June ultimo, of which I had the honor recently since to transmit to your lordship an unofficial printed copy; and also a further despatch, dated on the 11th of June ultimo, concerning the case of Mr. Cridland, representing himself as "acting English consul" at Mobile, Alabama; of which, together with that of the 6th of June, I am instructed to communicate copies to your lordship, which I shall do as soon as the copies can be prepared.

I have, &c.,

J. M. MASON.

No. 12.

*Mr. Mason to Earl Russell.—(Received July 24.)*24 UPPER SEYMOUR STREET, PORTMAN SQUARE,
July 24, 1863.

MY LORD: I have the honor to transmit to your lordship herewith a copy of the despatch of the secretary of state of the Confederate States of America to me, dated the 11th June ultimo, with copies of the documents accompanying it.

The instructions of the secretary to me being confined to the duty of furnishing this copy to your lordship, I refrain from any further act than to say, should it be the desire of the government of her Majesty to express any views on the matter contained therein, I will be happy in being the medium of communicating them to the secretary of state at Richmond.

I have, &c.,

J. M. MASON.

[For enclosure in No. 12, Mr. Benjamin to Mr. Mason, June 11, 1863, see "North America, No. 13, (1864)," page 25.]

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Annexes.

[A.—Extract from the Richmond Whig of May 18, 1863]

FOREIGN CONSULS.—Mr. Cridland, for some years past her Britannic Majesty's vice-consul at Richmond, is about to leave this city for Mobile, having in his pocket the commission of full consul. So runs a common report, which has not yet been denied.

Mr. C.'s promotion will give great pleasure to his numerous friends in this city, where he is sincerely respected and warmly esteemed. But he is accredited to Mr. Lincoln, not to Mr. Davis, and his credentials bear recent date. This intelligence, so long as it remains uncontradicted, will not give pleasure to any one in the south. To be sure, we know that we have no national existence outside of our own fond imaginations, and that in the eyes of Great Britain we are still part and parcel of the United States, and destined, for all she cares, so to remain forever. We know, further, that sundry private citizens of the south, nicknamed ministers, are cooling their heels to no earthly purpose in the antechambers of St. James and the Tuilleries, and this useless refrigeration of the *essa calcis* of Messrs. Mason and Slidell has been going on for above a year. Nor are we ignorant that some remote intimations of these things have reached the "so-called confederate government" without exciting the least stir or movement on the part of the "so-called."

Knowing all this, our duty as good citizens and believers in that sound political dogma, "the government is in the possession of facts," is to imitate the "so-called," and make no stir. Accordingly we make none.

Nevertheless, the creation at this late day of a Lincoln consul at Mobile by the English secretary of foreign affairs, and the acceptance of such a commission by that consul, may well excite, if it does not excite, a tendency on the part of the southern people to take the liberty of making a remark. There is a certain newness about the thing, which might, under other circumstances, occasion surprise; and, so to speak, a rawness in the matter that might, in ordinary times, produce a sensation bordering on the disagreeable. But these contingencies are remote. We are quite sure that there is not a man in the confederacy who feels the slightest inclination to make any remark until the war is over, and the public, as well as the "so-called confederate government," is in possession of those awful facts on which the unofficial mind would be justified in basing an opinion, and in the absence of which the private citizen is dutifully and reverently dumb.

So far as Mr. Cridland is concerned, the statements made above may be unfounded. We shall be glad to hear it, if gladness be compatible with good citizenship and the facts possessed by the "so-called."

It is possible, though not probable, that there are no British consuls accredited to the United States in this confederacy or elsewhere. If such be the fact, we may venture to be agreeably surprised so soon as the war terminates and the mysterious possessions of the "so-called" are generally distributed. Pending the war, however, we shall esteem it a great privilege to be permitted by the "so-called" to be as indifferent to the dignity and honor of the country as we are ignorant of the appalling facts in possession of the aforesaid "so-called."

(B.)—Extract from the "Richmond Whig" of May 19, 1863.

MR. CRIDLAND.—We desire to correct the report mentioned by us yesterday in connexion with this gentleman, so far as to state that he goes to Mobile with-

out commission from the Queen or exequatur from Washington, but simply at the request or order of Lord Lyons, to look after British interests in that quarter in an unofficial way. Of this we are assured by Mr. C. himself, who leaves the city this morning. In the capacity in which he goes he will, we are sure, receive from the hospitable and polished people of Mobile the consideration and courtesy to which he is entitled.

(C.)—*Admiral Buchanan to Mr. Mallory.*

(Telegraphic.)

MOBILE, *June 4, 1863.*

The French consul, M. Portz, has, in his official capacity as acting English consul, introduced me to Mr. Cridland, who has shown me an official document, signed by Lyons, appointing him the acting English consul at Mobile. Am I to recognize him as such?

(D.)—*Mr. Walsh to Mr. Magee.*

BANK OF MOBILE,
Mobile, November 11, 1862.

DEAR SIR: The State of Alabama is very anxious to insure to its creditors their dues to the utmost fraction, notwithstanding the obstacles now thrown in the way of the United States government to prevent creditors in the Confederate States from meeting their obligations.

This State will owe, the coming year, in payment of its interest coupons, in bonds due British subjects, some £40,000 sterling, which coupons are payable at the Union Bank and at the counting-house of the Messrs. Rothschild, in London. The State is not only anxious, but determined, if possible, to continue to protect its credit, and promptly meet its obligations as heretofore; also to fulfil strictly its promises to its foreign creditors, both in regard to the payment of its dues as well as its promised places of payment. With this view, will you allow me to invoke your kind aid in behalf of the State, and this bank, which has acted as the fiscal agent of the State for many years past in the payment of its foreign interests, to fulfil its obligations, which is of the utmost importance, in every point of view, both to the State of Alabama and its foreign creditors. I have now to ask the favor of your ascertaining from the British minister at Washington (or through any other channel) if this bank can be allowed to place in your hands the sum necessary, in coin, for transmission to England by the first favorable opportunity, at the expense of the State, for the purpose mentioned. I must ask you, kindly, to give me as early a reply to this communication as your convenience will permit.

I am, &c.,

CHARLES WALSH.

(E.)—*Mr. Magee to Mr. Walsh.*

MOBILE, *November 14, 1862.*

SIR: Your favor of the 11th current duly received, and referring to its contents I beg leave to inform you that I sent yesterday by an opportunity to New Orleans a despatch to her Britannic Majesty's consul there, stating the

gist of your desire, and asked if her Majesty's ship *Rinaldo*, Captain Hewett, now at New Orleans, could not be sent to this place in order to receive from you the specie, take it hence to Havana, and allow the consul general of Great Britain to forward it per steamer to London.

If I fail here, I will invoke the aid of Lord Lyons at Washington.

I am, &c.,

JAMES MAGEE.

(F.)—*Mr. Walsh to Mr. Magee.*

I do hereby certify that the thirty-one kegs of specie, marked B.M., containing each \$5,000, together \$155,000, handed over to you by this institution for the purpose of having the same delivered to H. Bell, consul general at Havana, and to be transmitted thence to England to the consignment of the Union Bank of London by the British mail steamer, is for the purpose of paying due to British subjects from the State of Alabama, and is the property and belongs to the subjects of her Britannic Majesty.

Very respectfully, &c.,

CHARLES WALSH.

(G.)—*Mr. Walsh to Mr. Scrimgeour.*

MOBILE, *January 3, 1863.*

DEAR SIR: This institution deposited in the French consul's hands, for safe-keeping, in May last, thirty-one kegs of specie, containing each 5,000 Mexican dollars, together \$155,000, appropriated by the State of Alabama to pay the British and other foreign holders of State bonds the interest due on sums as follows:

	£	s.	d.	
1863—June 1.....	7,380	17	7.	Payable at the Union bank.
July 1.....	3,215	11	9.	Do. do.
July 1.....	465	17	3.	Payable at Messrs. Rothschilds'.
1864—January 1.....	3,215	11	9.	Payable at the Union bank.
January 1.....	465	17	3.	Payable at Messrs. Rothschilds'.
June 1.....	9,380	17	7.	Payable at the Union bank.
July 1.....	3,215	11	9.	Do. do.
July 1.....	465	17	3.	Payable at Messrs. Rothschilds'.
<hr/>				
	29,806	2	2	

The arrival of her Britannic Majesty's ship *Vesuvius*, Lieutenant Crooke, affords the opportunity of sending this forward; and the said specie has been turned over to her Britannic Majesty's acting consul here, James Magee, esq., who has shipped it by the said vessel to James G. Crawford, esq., her Britannic Majesty's consul general at Havana, and who is requested to ship the same, by the British mail steamer, to your consignment, for the purpose of paying it over to the parties holding the said interest coupons under such arrangements as have heretofore existed with you by this bank.

The charges for freight from this port, and all expenses belonging thereto, you will please pay to the debit of this bank.

I remain, &c.,

CHARLES WALSH.

B. M., thirty-one kegs specie, 5,000 dollars each, together 155,000 dollars.

(H.)—*Commander Hitchcock to Mr. Magee.*

SUSQUEHANNA, *Pensacola Bay*, April 8, 1863.

SIR: Your communication of the 4th instant has this moment been received by flag of truce. In relation to your connexion with the transaction of shipping specie from Mobile I know very little. The commander of the *Vesuvius* told me he came to transact government business with the British consul, and that he believed he (the consul) had some money to send by him. To which I replied, "We cannot examine an English man-of-war; we trust all you do will be right and proper. You could go up to the city, if you wished, where we do not go." Further than this I have no knowledge.

Very respectfully,

N. B. HITCHCOCK.

[(I.)—*Circular to consuls and consular agents.*

DEPARTMENT OF STATE, *Richmond*, June 10, 1863.

SIR: It becomes my duty to inform you that the president has determined to permit no direct communication between consuls or consular agents of foreign countries residing within the confederacy, and the functionaries of such foreign governments residing in the enemy's lines. The passage, in future, of consular couriers, messengers, or of consuls or consular agents themselves, through the confederate lines to the enemy, is accordingly prohibited, and foreign officials will be allowed to communicate with their governments only directly, or through neutral countries.

With great respect, &c.,

J. P. BENJAMIN.

No. 13.

Earl Russell to Mr. Mason.

FOREIGN OFFICE, *July 25*, 1863.

SIR: I have the honor to acknowledge the receipt of your letter of the 21st instant, in which you inform me with reference to the case of the officer charged with murder on board the *Sumter*, at Gibraltar, that the confederate government would be prepared to receive the prisoner at any one of the southern ports where he might be delivered up, and that in the event of a refusal on the part of the United States government to consent to the passage of the *Shannon* through the blockade, a naval officer of the confederacy would be sent to Bermuda, with authority to receive the prisoner, and to bring him into one of its ports in a vessel of the confederate government.

I have the honor to state to you, in reply, that her Majesty's minister at Washington was not able to obtain the consent of the United States government to the passage of the *Shannon* through the blockade for the purpose above mentioned, and that her Majesty's government, having been advised by the law officers of the crown that the prisoner was a person over whom no British court had jurisdiction, came reluctantly to the conclusion that he ought not to be detained in custody by any British authority longer than might be necessary for the purpose of disposing of him on shore.

Orders were accordingly, about a fortnight back, given to that effect to the governor of Bermuda, and to the British admiral on the North American station, and Mr. Consul Moore would have been instructed in due course to

communicate this result to the authorities at Richmond had he not been obliged to quit that city under the circumstances to which you refer in the concluding portion of your letter.

I am, &c.,

RUSSELL.

No. 14.

Mr. Mason to Earl Russell.—(Received July 30.)

24 UPPER SEYMOUR STREET, PORTMAN SQUARE,

July 29, 1863.

MY LORD: As promised in my letter of the 21st of July instant, I have now the honor to communicate herewith to your lordship a copy of the despatch of the 6th of June ultimo, from the secretary of the Confederate States to me, with copies of the documents accompanying it. They relate to the matter of the dismissal of Mr. Moore, late British consul at Richmond.

I have, &c.,

J. M. MASON.

[For enclosure 1 in No. 14, Mr. Benjamin to Mr. Mason, June 6, 1863, see "North America, No. 13, (1864,)" p. 6-8.]

[Enclosure 2 in No. 14.]

Consul Moore to Mr. Benjamin.

RICHMOND, February 16, 1863.

SIR: I have the honor to request your favorable consideration of the following enactment, in so far as it regards British subjects.

I observe that the legislature of Mississippi has passed an act to amend an act entitled "An act to revise and reduce into one the militia and volunteer laws of that State." Section 12 runs thus:

"Be it further enacted, That all white male persons above the age of eighteen years and under the age of fifty years, residing temporarily or permanently in this State, and not specially exempted by law, shall be liable to serve in the militia of this State."

Also, the following order has appeared, thus:

"DEPARTMENT OF STATE, RICHMOND.

"HEADQUARTERS, STATE OF MISSISSIPPI,

"Adjutant and Inspector General's Office, Jackson, January 19, 1863.

"Special Order, No. 271.

"Major General T. C. TUPPER :

"SECTION 3. You will order all field, company, and staff officers not in active service, and all white males between the ages of eighteen and fifty, who are either temporarily or permanently residing in the State, to be included in the draft, except such as may be liable and have not been discharged from conscription. All those discharged from State service by reason of surgeons'

certificates, together with those who are exempt from conscription by act of Congress, are to be included in said draft, unless specially exempt by the laws of the State.

"By order :

"JOHN J. PETTUS,

"Governor and Commander-in-Chief.

"JAMES S. HAMILTON,

"Adjutant and Inspector General, State of Mississippi."

I would, therefore, now crave your opinion as to the construction of this order, if I am to understand that any act of Congress is to be subservient to the legislature of Mississippi.

I put this question as a case has arisen, this morning, claiming my interference to protect a British subject, in accordance with the Queen's proclamation of neutrality, from enrolment in that State.

I have, &c.,

GEO. MOORE.

P. S.—Since writing the above, I have received a letter from a Mr. Thomas Kingsly Jones, a British subject, from Rankin county, Mississippi, who, according to his own statement, has been most harshly dealt with, assaulted, and one eye injured, and imprisoned as a malefactor at Jackson, in a bitterly cold prison, for resisting the conscription. Mr. Jones holds a certificate of British nationality, and he has already rendered military service here, and has been honorably discharged, whose soldier's discharge is on file at my office.

G. M.

[Enclosure 3 in No. 14.]

Mr. Benjamin to Consul Moore.

DEPARTMENT OF STATE,

Richmond, February 20, 1863.

SIR: Your letter of 16th instant, in relation to certain enactments and military orders in the State of Mississippi, has been received. In that letter you also make reference to the complaint of a British subject, alleging ill treatment at the hands of officers enforcing the conscript law in Mississippi.

Before replying to the subject-matter of your letter, it is deemed necessary to inquire into the extent of the authority vested in you, by her Majesty's commission, as her consul in Richmond. The exequatur granted on that commission, by the government of the United States, was conferred at a date when that government had the right to act in such matters as the agent of the States that have since formed the confederacy, and the exequatur has therefore not been questioned. It was supposed to have reference solely to consular functions in Richmond, or, at furthest, in the State of Virginia.

As your letter, however, initiates a diplomatic correspondence with this department on the subject of the laws and regulations of the State of Mississippi, it becomes necessary to request that your consular commission, as well as any other authority you may have received, to act in behalf of the government of her Britannic Majesty be officially submitted to this department, in order that the precise nature and extent of your functions may be ascertained before further correspondence can be held with you as her Majesty's consul at the port of Richmond.

I am, &c.,

J. P. BENJAMIN.

[For enclosure 4 in No. 14, Mr. Benjamin to Consul Moore, June 5, 1863, see "North America, No. 13, (1864,)" p. 2.]

[For enclosure 5 in No. 14, letters patent revoking Consul Moore's exequatur, *ibid.*, p. 2.]

[Enclosure 6 in No. 14.]

Lieutenant Colonel Edgar to Captain Catlett, C. S. A.

HEADQUARTERS 26TH VIRGINIA BATTALION,
Handley's Hill, May 25, 1863.

CAPTAIN: The communication from the secretary of war, asking information respecting the conscription of Nicholas Maloney and Eugene Farrel, has been received, and, in reply, I submit the following:

Nicholas Maloney is a native of Ireland. He does not know exactly how long since he came from Ireland to this country. He has been a resident of Greenbrier county, Virginia, for eight years. He bought land in said county, and, after the several payments were made, he received the deed for the land, and that deed was recorded in the clerk's office of Greenbrier county, three years ago. From the time of purchase till he was conscribed he resided upon and cultivated the land. His family still resides upon it. He has also exercised the right of suffrage. He was assigned (as a conscript) to this battalion in December, 1862.

Eugene Farrel is a native of Ireland; does not know the exact time when he came to this country. He bought land in Fayette county, Virginia, and, after the payments were made, he received the deed for the land; that deed was recorded in the clerk's office of Fayette county. He afterwards exchanged his land in Fayette for land in Greenbrier. He afterwards sold one-half of his land in Greenbrier to his brother, and his family still resides upon the half reserved. He has been a resident of Virginia for eight years, and has exercised the right of suffrage. He was assigned to this battalion (as a conscript) in December, 1862. From time of purchase to time of conscription he resided upon and cultivated his land.

Very respectfully, &c.,

GEO. M. EDGAR.

[Enclosure 7 in No. 14.]

Mr. Moore to Mr. Caldwell.

RICHMOND, Virginia, May 5, 1863.

MY DEAR SIR: I have just received your letter of the 30th April, and I have at once addressed a letter to the secretary of war on the subject of Maloney and Farrel, of which I transcribe a copy herewith.

I am really at a loss to account for the dilatory proceedings, not to make use of any harsher term; however, I cannot help saying to you, unofficially, that the apparent apathy and indifference with which the war department seems to regard cases of the most atrocious cruelty quite baffle all my preconceived opinions of my own kindred race.

I have lived thirty-two consecutive years (from 1826 to 1858) in despotic countries, and I am compelled to bear witness that I have met in those foreign countries more official courtesy and consideration from the local authorities, on my representation of grievances, than I have met at the hands of my own blood and lineage.

These reports, which I am obliged to send home, do not tend to the consummation which, perhaps, some of us desire.

I will say no more, for it grieves me to write this.

Believe me, &c.,

GEORGE MOORE.

No. 15.

Mr. Mason to Earl Russell.—(Received July 30.)

24 UPPER SEYMOUR STREET, PORTMAN SQUARE,

July 29, 1863.

MY LORD: I have the honor to acknowledge receipt of your lordship's letter of July 25th instant, in which I am informed that her Majesty's minister at Washington was not able to obtain the consent of the United States government to the passage of the Shannon through the blockade, for the purpose of delivering over to the authorities of the Confederate States a prisoner charged with murder, committed on board a confederate vessel-of-war. Your lordship further informs me that, for reasons stated in the letter, her Majesty's government had reluctantly come to the conclusion that the prisoner ought not to be detained in custody by any British authority longer than might be necessary to dispose of him on shore; and that orders had accordingly been issued to that effect to the proper authorities at Bermuda, and to the British admiral on the North American station.

I shall send a copy of your lordship's letter, by the first opportunity, to the secretary of state at Richmond, and can only anticipate the great regret with which the President of the Confederate States will learn that her Majesty's government had deemed it proper to depart from its original purpose in regard to this prisoner, as the same had been communicated to him, under instructions from your lordship, by Mr. Moore, late British consul at Richmond.

I have, &c.,

J. M. MASON

No. 16.

Earl Russell to Mr. Mason.

FOREIGN OFFICE, August 10, 1863.

SIR: With reference to your letter of the 16th ultimo enclosing a list of vessels which had arrived at Nassau from American blockaded ports from the 18th of April, 1862, to the 2d of June, 1863, and to my letter of acknowledgment of the 18th ultimo, I think it right to observe that her Majesty's government see no reason to alter the opinion as to the efficiency of the blockade which was conveyed to you in my letters of the 10th and 27th of February last.

I am, &c.,

RUSSELL.

No. 17.

Earl Russell to Mr. Mason.

FOREIGN OFFICE, August 19, 1863.

SIR: In reply to your letters of the 24th and 29th ultimo, I have to state to you that Mr. Acting Consul Magee failed in his duty to her Majesty, by taking

advantage of the presence of a ship-of-war of her Majesty at Mobile to transmit specie to England. This transaction had the character, in the eyes of her Majesty's government, of aiding one of the belligerents against the other.

Laying aside, however, this question of the conduct of Mr. Acting Consul Magee, of which her Majesty is the sole judge, I am willing to acknowledge that the so-styled Confederate States are not bound in any way to recognize an authority derived from Lord Lyons, her Majesty's minister at Washington.

But it is very desirable that persons authorized by her Majesty should have the means of representing at Richmond and elsewhere in the Confederate States the interests of British subjects who may be, in the course of the war, grievously wronged by the acts of subordinate officers. This has been done in other similar cases of states not recognized by her Majesty, and it would be in conformity with the amity professed by the so-styled Confederate States towards her Majesty and the British nation if arrangements could be made for correspondence between agents appointed by her Majesty's government to reside in the Confederate States and the authorities in such States.

I am, &c.,

RUSSELL.

No. 18.

Mr. Mason to Earl Russell. — (Received September 4.)

24 UPPER SEYMOUR STREET, PORTMAN SQUARE,

September 4, 1863.

MY LORD: I have had the honor to receive your lordship's letter of the 19th of August ultimo, in reply to mine of the 24th and 29th of July ultimo. I shall transmit a copy of your lordship's letter to the secretary of state at Richmond.

The despatches of Mr. Benjamin (full copies of which I have by his direction furnished to your lordship) certainly evince no disinclination to permit any person accredited by her Majesty's government as its consular or other agents to reside within the Confederate States, and as such to be in communication with the government there. They explain only (and certainly in terms of amity) how it has resulted that the government of the Confederate States has felt itself constrained to prohibit in future any direct communication between such agents and her Majesty's minister resident at Washington—a prohibition which I understand from those despatches is equally extended to all like agents of foreign power and their ministers at Washington. All communications to or from such agents are in future to be made through vessels arriving from or despatched to neutral ports.

That it should have become necessary to impose this restriction is, I am sure, a matter of regret to the president of the Confederate States, but the circumstances which have called it forth are under the control of foreign governments, and not under the control of the president.

In regard to the suggestion in your lordship's letter that it would be "very desirable that persons authorized by her Majesty should have the means of representing at Richmond and elsewhere in the Confederate States the interests of British subjects," which, as your lordship states, "has been done in other similar cases of states not recognized by her Majesty," under arrangements for correspondence between agents appointed by her Majesty's government to reside in the Confederate States and the authorities in such States, I can only say that if it be your lordship's pleasure to make this proposition in such form as may be agreeable to her Majesty's government, and not at variance with the views expressed in the despatches of Mr. Benjamin, I do not doubt it would receive the favorable consideration of the government at Richmond, and I should be happy in being the medium to communicate it.

I have, &c.,

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J. M. MASON.

No. 19.

*Mr. Mason to Earl Russell.—(Received September 21.)*24 UPPER SEYMOUR STREET, PORTMAN SQUARE,
September 21, 1863.

MY LORD: In a despatch from the secretary of state of the Confederate States of America, dated the 4th of August last, and now just received, I am instructed to consider the commission which brought me to England as at an end, and I am directed to withdraw at once from the country.

The reasons for terminating this mission are set forth in an extract from the despatch which I have the honor to communicate herewith. The president believes that "the government of her Majesty has determined to decline the overtures made through you for establishing, by treaty, friendly relations between the two governments, and entertains no intention of receiving you as the accredited minister of this government near the British court.

"Under these circumstances, your continued residence in London is neither conducive to the interests nor consistent with the dignity of this government, and the president therefore requests that you consider your mission at an end, and that you withdraw with your secretary from London."

Having made known to your lordship on my arrival here the character and purposes of the mission intrusted to me by my government, I have deemed it due to courtesy thus to make known to the government of her Majesty its determination, and that I shall, as directed, at once withdraw from England.

I have, &c.,

J. M. MASON.

No. 20.

Earl Russell to Mr. Mason.

FOREIGN OFFICE, September 25, 1863.

SIR: I have had the honor of receiving your letter of the 21st instant, informing me that your government have ordered you to withdraw from this country, on the ground that her Majesty's government have declined the overtures made through you for establishing, by treaty, friendly relations, and have no intention of receiving you as the accredited minister of the Confederate States at the British court.

I have on other occasions explained to you the reasons which have induced her Majesty's government to decline the overtures you allude to, and which have hitherto prevented the British court from recognizing you as the accredited minister of an established state.

These reasons are still in force, and it is not necessary to repeat them.

I regret that circumstances have prevented my cultivating your personal acquaintance, which in a different state of affairs I should have done with much pleasure and satisfaction.

I am, &c.,

RUSSELL.

No. 21.

Mr. Mason to Earl Russell.—(Received October 2.)

LONDON, September 28, 1863.

Mr. Mason presents his compliments to Earl Russell, and has the honor to enclose herewith two original papers pertaining to the case of the Margaret and Jessie, recently received from the parties interested.

Mr. Mason does this because of his previous knowledge that this case had been brought to the notice of Earl Russell.

[Enclosure 1 in No. 21.]

*Mr. Trenholm to Governor Bayley.*NASSAU, N. P., BAHAMAS, *July 3, 1863.*

SIR: The undersigned, George A. Trenholm, a citizen of the Confederate States of North America, and a merchant of the city of Charleston, in the State of South Carolina, begs leave respectfully to submit to your excellency, and through your excellency to her Britannic Majesty's imperial government—

That on Saturday, the 30th of May last past, the steamship *Margaret and Jessie*, a duly registered vessel in the said Confederate States, and the property of the undersigned, while engaged in a lawful navigation and trade between the neutral port of Nassau, in the island of New Providence, and the confederate port of Charleston, and while proceeding on her voyage, with the emblem of her nationality at her mast, within waters of her Majesty the Queen of Great Britain's jurisdiction, at less than one mile from the island of Eleuthera, in the Bahamas, and within speaking distance of the settlement of James's Point, in said island, after a hot pursuit and chase, was fired into with shot and shell by an armed vessel bearing the colors of the United States of America, the same being, as the undersigned verily believes, the United States vessel-of-war *Rhode Island*, until, being disabled by a ball which struck her on the starboard side, just above the water-line, entering her boiler and paralyzing her machinery, she became entirely unmanageable, foundered several times on the reef, and sank.

The outrage thus committed on the *Margaret and Jessie*, and the injury sustained by her cargo, her machinery, and her hull, constituting a tort which, by the law of nations, can only be set up and brought to reparation through the agency and under the guarantees of the friendly power within whose jurisdiction and in contempt of whose supremacy the wrong was perpetrated, the undersigned lays this his complaint and claim before your excellency that the same may be brought to the notice of her Britannic Majesty's government, and be attended to and acted upon with the zeal and energy which that government is wont to apply to cases arising out of similar emergencies.

Appended will be found the protest and declarations taken by duly commissioned officers of the British crown residing at Nassau. To these documents the undersigned craves reference, as they will elucidate and stand in proof of the facts set forth in this memorial.

The *Margaret and Jessie* being on an errand of legitimate trade, she had no motive to conceal, and therefore did not conceal, either her colors or the character of her venture; a belligerent, she was entitled to all the immunities and protection due to friendly vessels on the coasts and in the ports, bays, harbors, and rivers of neutral jurisdiction.

After being chased by a federal cruiser from a distance which the evidence puts at twenty miles from land, she had, by dint of swiftness, escaped the pursuer, and was making rapidly for the island of Eleuthera, which she had neared less than 400 yards, when she was fired into, struck, and sunk, as aforesaid. That she was then within grounds where no federal vessel could lawfully commit hostilities will not be denied, as even any forbearance on the part of the neutral power, whose sovereignty and jurisdiction were thus invaded and infringed, instead of imparting legitimacy to the transgression, would not only entail upon such power a liability coextensive to the wrong suffered, but make it a party to the contest, as it would thereby have departed from the position of neutrality.

That it was an outrage of the deepest dye, fraught with all the evidences of the most unmitigated perverseness and effrontery, the declarations taken and herewith submitted but too palpably establish.

Charles M. Morris, who was a passenger on board the *Margaret* and *Jessie*, attests "that the firing into her by the federal cruiser commenced when running for the island of Eleuthera; she was only five miles distant from it, the war vessel continuing in pursuit, and incessantly discharging shot and shell, which fell thickly over and around the *Margaret* and *Jessie*, until the latter arrived within 500 yards of the beach, when, to prevent her going upon the land, her course was changed, and she was headed westwardly, coasting and skirting the land at a distance from 400 to 500 yards from it; she thus continued for a period of an hour and three-quarters, during all which time she was never farther than 500 yards from the land.

"The war vessel continued the chase, being about a mile from the *Margaret* and *Jessie*, discharging shot and shell by broadsides, which fell thickly around the vessel, many passing over and striking the land; and so near was the *Margaret* and *Jessie* during all this time kept to the shore, that she took ground several times in passing over the reefs which lie a short distance from the land, and eventually a shell shot from the vessel-of-war struck the *Margaret* and *Jessie*, she then being not further than 400 yards from the land, and passed through into her boiler, which so disabled her that within a minute of time she took the ground and filled with water."

This statement of Charles M. Morris is strengthened by the concordant declarations of all the other witnesses, who testify to the same effect with slight variances, which would only go to reduce to 300 yards the distance at which the *Margaret* and *Jessie* stood from the beach the whole time that she was headed westwardly, and was kept coasting and skirting the land until she was struck, disabled, and sunk.

Thus is the fact fairly established that for upwards of an hour and three-quarters the *Margaret* and *Jessie*, she being then within less than 500 yards from the island of Eleuthera, and the United States cruiser at less than a mile farther, was chased, pursued, and repeatedly fired into by the latter, without there being anything in her conduct of a nature to incur the 'wrath of the pursuer, or to afford him the slightest excuse for the infringement of British supremacy over grounds within which, under her Britannic Majesty's protection, she was entitled to enjoy all the immunities of asylum, hospitality, and intercourse.

Nor could those on board the pursuing vessel have been, at any time, in error respecting the character of the waters over which they were treading. Not only was the *Margaret* and *Jessie* so close to the shore that her passengers could exchange words and converse with the people upon the beach, but the shots and shells fired from the federal cruiser could be seen falling upon the land, passing through the tenements there, and forcing the inhabitants, stricken with terror, to fly from their dwellings and seek refuge under the hills.

Clinton Johnson, a farmer of the island of Eleuthera, who lives at the town known as James Cistern, on the south side of said island, thus describes the circumstances, the time and manner of the pursuit, which brought the *Margaret* and *Jessie* to the shoals where she was stranded. Says he:

"On Saturday, the 20th of May last, I heard the reports of cannon on the north side of the island. I immediately went to the high land to the north of the town, and saw two steamships, one in chase of the other, the outer ship discharging guns very rapidly at the ship that was nearest to the shore, and both approaching at full speed to the land. The ship nearest the land was an unarmed vessel, and the vessel chasing her was a vessel-of-war. The unarmed vessel having arrived within 300 yards of the beach, changed her course, and skirted along the land, at no time being 400 yards from it. The vessel-of-war also changed her course, and having arrived within a distance of at most half a mile from the other ship, continued for at least one hour and a half to discharge without cessation shot and shell, which, from time to time, passed over

the inner ship, and struck and exploded upon the land. Many of the shots fell within a distance of 100 yards from the dwelling-houses in the town of James's Cistern, and caused great destruction among the trees and wood in the neighborhood; and the inhabitants of the town, fearing that their houses would be struck by the shot, and some of them be killed, quitted the town and took refuge under the hill until the firing had ceased."

It will be noticed that the chase and pursuit of the Margaret and Jessie were being had on the north side of the settlement at James's Point, where the island is but two miles wide from north to south.

Thomas and Samuel Mackey, together with Theodore Cuvillier and William Hanna, of the same settlement, were fishing at the time on the south side of the settlement, and here is what they state of the occurrence as by them witnessed. Says Thomas Mackey:

"I was out fishing. I heard the reports of several heavy guns. The sound came from the northeast across the island. When the boat (his fishing-boat) was about three miles from the settlement, and about half a mile from the southern shore, heard the report of another gun, and saw a cannon-shot fall in the water, about sixty or seventy yards ahead of the boat in which we were, and very near the boat in which Theodore Cuvillier was."

How near must the chasing vessel have been to the northern shore may easily be deduced from the fact of the shot traversing the island, reaching more than seventy yards beyond the southern shore.

Theodore Cuvillier testifies that "while he was out fishing, on Saturday the 30th of May, on the southern side of the settlement of James's Point, in the island of Eleuthera, which settlement is bounded on the north and south by the sea, the distance across being only two miles, he heard the report of several guns. He immediately went on shore, proceeded to a hill nearly over to the northern side, and climbed up a tree that he might see from whence the guns were being fired. On looking out to sea he saw two steamers, one of them having paddle-boxes, and steering down, outside of a reef which is about 300 or 400 yards from the shore; and the other, without paddle-boxes, also steering down, outside of the reef, about 500 or 600 yards from the first steamer. The steamer further out was firing at the inner one. She would fire first from one side, and then turn and fire from the other side. He could see the shots from these guns fall upon the land, about 300 yards from where he was up the tree, about half a mile from the settlement. On seeing the shot fall so near, he jumped from the tree, ran back to the southern shore, and got into his boat to come home. While he was coming down, he heard a gun go off in the direction of the two steamers, and a cannon-ball passed his head, and fell in the sea about thirty yards from him, which caused him to fall down in the boat from the shock."

Samuel Mackey, a planter, who resides at James's Point, was also fishing on the southern side of the settlement, "when he heard the reports of several heavy guns from the northeast, and on returning to the shore, being about three yards from it, saw a cannon-ball fall on the land in the inside of the settlement where the houses are built, and found afterwards a portion of the shot in the place where he had seen it fall."

William Hanna corroborates every essential statement made by the preceding witnesses, and Jane Hanna gives the finishing stroke to the stirring scene, in her clear, short, and unadorned narration of incidents, which she watched the more closely as she found herself within range of the shots fired by the federal cruiser, and in imminent peril of being killed by one of them.

This woman lives on the same settlement of James's Point. On Saturday, the 30th May last, says she, "I was in my house at James's Point, when I heard guns firing from the sea. I looked out of the door of my house to the north. The house is on a hill, about two miles from the shore, on the northern side of

the settlement. I can see the sea from the door. I saw a steamer passing up along the shore firing guns; I left my house and went on a hill near, when I saw another ahead, at which the other was firing; I watched them for some time, when the inner steamer turned and came down; I then saw the steamer that had been firing also turn and commence to fire at her. Several of the shots I saw fall on the land. I entered my house, when I heard another report of a gun, and something that struck on the roof of my house; I looked out of the door and saw the steamer that had been firing before opposite my house, and clouded in smoke. I went over to the northern side in the evening and saw one of the steamers on shore, and the other, the one that had been firing the guns, lying outside of her with a flag flying." (The United States flag, as attested by other witnesses.)

The facts stated by these witnesses require no comment, and lose nothing by retaining the unstudied style in which they are told. Unless there be no virtue in the principles which regulate the relations between belligerents on the one side and neutrals on the other, they cannot fail to impress themselves upon the mind as being of the most grave significance and import. The recognition by the great powers of Christendom of the existence of civil war between the Confederate States and the States that still retain the name of United States of America, and the avowed determination of those powers not to part in the mighty conflict for independence on the one side, and for subjugation on the other, in which said States are engaged, has imparted to them not only the character of belligerents possessing the sovereign rights of war, and entitled to be respected in the exercise of those rights, but also those attributes which are inherent to friendly powers, and invest them incontestably with equal rights of asylum, hospitality, and intercourse in neutral territories.

Confiding in the immunities arising out of the relations created by that recognition and that avowal, and reposing unbounded faith in the ability of the powers thus committed by their own declarations to vindicate and uphold those immunities when invoked within their respective jurisdiction, the undersigned, with other of the Confederate States, selected the port of Nassau, in the Bahamas, as one of the points where might be centred what of commercial intercourse and trade might find a channel to and from the confederate ports, notwithstanding the difficulties and perils which the blockade of said ports was likely to entail upon such intercourse and trade.

The selection and the traffic proving highly profitable to both her Britannic Majesty's subjects and the citizens of the Confederate States, there came to be established between Nassau on the one side, and Charleston and Wilmington on the other, a regular uninterrupted communication, through the steady voyages of upwards of twenty steamers carrying openly, and without serious hindrance, to and from the said ports, the commodities interchanged in each of them respectively.

Of seven steamers which the undersigned alone has kept plying on the sea between said ports, and which have performed no less than thirty-two round voyages within these twelve months just elapsed, aggregating a return cargo of over 21,000 bales of cotton, not one has ever been stopped in her trade or in any manner impeded in her progress by the interference of the blockading force; all of them have carried out successfully their adventure, with the exception of the *Kate* and the *Stonewall Jackson*, which were lost by mere accident, the one as she ascended the river near Wilmington, and the other by being stranded on the bar at Charleston.

Among the said steamers was particularly distinguishable the *Margaret* and *Jessie* for the precision and steadiness of her voyages, having performed in less than five months five complete trips, with a full return cargo of cotton to Nassau, aggregating 3,714 bales, as may be seen by the sworn declaration of J. B. Lafitte, and the certified statement of the custom-house collector at this port hereto annexed.

It was not until the Margaret and Jessie fell in with a federal cruiser, on grounds of her Britannic Majesty's jurisdiction, and there was chased, pursued, and fired into by said cruiser within voice-hearing distance of land, near by and in sight of an inhabited settlement, and in defiance of the protection which she had an unquestionable right to enjoy, being within neutral waters, and far beyond the line assigned as the ultimate terminus for such hostilities, that a vessel of the undersigned was interfered with and assailed.

The undersigned therefore now files here, with a condensed statement and evidence of the loss which he has sustained in consequence of the piratical course pursued by the federal cruiser towards the Margaret and Jessie, respectfully requesting your excellency to submit the same, with this memorial and the accompanying documents, to the consideration of her Britannic Majesty's imperial government, that it may please said government, under the pledges, obligations, and guarantees of its declared neutrality, to press the same to a speedy recognition and settlement.

I have, &c.,

GEORGE A. TRENHOLM,

By his agent, JNO. B. LAFITTE

[Enclosure 2 in No. 21.]

NASSAU, NEW PROVIDENCE, *July 3, 1862.*

Claim of George Alfred Trenholm, of Charleston, South Carolina, against the government of the United States of America, through the agency and under the plighted guarantees assumed by her Britannic Majesty's government in its recognition of the Confederate States as belligerents, and its avowal of neutrality in the contest between the said Confederate States and the said United States.

	£	s.	d.
Amount of salvage and expenses paid by Messrs. Henry Adderly & Co., as per their account marked A.....	11, 198	17	7
Actual loss on cargo, as shown by statement marked B and the accompanying documents	17, 532	5	0
Cost of repairs as estimated by board of surveyors, as shown by certificate copy of survey.....	14, 000	0	0
Loss of freight for one round voyage, as shown by statement marked C and accompanying documents.....	26, 407	4	2
	69, 138	6	9

GEORGE A. TRENHOLM,

By his agent, JNO. B. LAFITTE.

No. 22.

Earl Russell to Mr. Mason.

FOREIGN OFFICE, *October 6, 1863.*

Lord Russell presents his compliments to Mr. Mason, and has the honor to acknowledge the receipt of his note of the 28th ultimo, enclosing certain original papers relating to the case of the vessel Margaret and Jessie.

*Correspondence respecting the removal of British consuls from the so-styled
Confederate States of America.*

LIST OF PAPERS.

- No. 1. Consul Moore to Earl Russell, June 9, 1863.—Four enclosures.
 No. 2. Lord Lyons to Earl Russell, June 16, 1863.—Five enclosures.
 No. 3. Acting Consul Cridland to Earl Russell, June 15, 1863.—Four enclosures.
 No. 4. Earl Russell to Acting Consul Cridland, September 8, 1863.
 No. 5. Mr. Stuart to Earl Russell, August 29, 1863.—Ten enclosures.
 No. 6. Lord Lyons to Earl Russell, October 16, 1863.—One enclosure.
 No. 7. Lord Lyons to Earl Russell, October 23, 1863.—One enclosure.
 No. 8. Acting Consul Walker to Earl Russell, October 15, 1863.—Three enclosures.
 No. 9. Acting Consul Walker to Earl Russell, October 9, 1863.—Two enclosures.
 No. 10. Acting Consul Fullarton to Earl Russell, October 17, 1863.—Four enclosures.
 No. 11. Lord Lyons to Earl Russell, November 20, 1863.
 No. 12. Acting Consul Fullarton to Earl Russell, October 23, 1863.—One enclosure.

No. 1.

Consul Moore to Earl Russell.—(Received June 28.)

[Extract.]

RICHMOND, *June 9, 1863.*

I have the honor to enclose herewith the copy of a despatch and enclosures written by me to Lord Lyons, dated the 6th instant, from which your lordship will gather that this government has annulled my exequatur.

[Enclosure 1 in No. 1.]

Consul Moore to Lord Lyons.

[Extract.]

RICHMOND, *June 6, 1863.*

I have the honor to enclose to your lordship the copy of a letter addressed to me by Mr. Benjamin, secretary of state, under yesterday's date, together with letters patent (copy also enclosed) in the name of the president, Mr. Jefferson Davis, revoking my exequatur as her Majesty's consul for the State of Virginia, for the reason therein assigned, that I had corresponded with the secretary of war here on matters beyond my consular jurisdiction, after receiving an intimation from the secretary of state not to do so.

I am very happy to state that my last crowning consular act was consummated yesterday morning before I received this ungenerous withdrawal of my exequatur, by which measure I have checked the attempted conscription of British subjects under various pretexts, namely, for having voted, for having declared their intention of becoming citizens, for holding real estate, and for having married in the country, so that numerous British subjects got their release from captivity in a military camp yesterday, and it will stay, I trust, for a time this source of anxiety to them.

If I am to leave Richmond it will be absolutely necessary that this government should allow the unshackled departure of all British subjects; and if military exigencies should be pleaded as an excuse for objecting to allow them to cross their military lines, I beg to suggest whether means could not be resorted to to have steamers sent to City Point, on the James river, for their conveyance to Baltimore or New York. There are numerous British workmen in the different government workshops who are very anxious to leave at their own expense, but they are refused passports.

P. S.—I also enclose copy of my answer to Mr. Benjamin.

[Enclosure 2 in No. 1.]

Mr. Benjamin to Consul Moore.

DEPARTMENT OF STATE,

Richmond, June 5, 1863.

SIR: The president of the Confederate States has been informed that, in consequence of your assuming to act in behalf of the government of her Britannic Majesty on matters occurring in the State of Mississippi, you were requested to submit to this department your consular commission, as well as any other authority held by you to act in behalf of her Majesty's government, before further correspondence could be held with you as British consul for the port of Richmond. He has further been informed that you have not acceded to this request, and that in disregard of the legitimate authority of this government you have again lately corresponded as her Majesty's consul for this port with the secretary of war of the Confederate States. The president considers it as inconsistent with the respect which it is his office to enforce towards this government that you should any longer be permitted to exercise the functions or enjoy the privileges of a consul in these Confederate States. He has consequently thought proper, by the letters patent of which I enclose you a copy, to revoke the exequatur heretofore granted to you, and to make public these letters patent.

I have, &c.,

J. P. BENJAMIN,
Secretary of State.

[Enclosure 3 in No. 1.]

Letters patent revoking the exequatur of George Moore, her Britannic Majesty's consul at Richmond.

Jefferson Davis, president of the Confederate States of America,

To all whom it may concern:

Whereas George Moore, esq., her Britannic Majesty's consul for the port of Richmond and State of Virginia, (duly recognized as such by the exequatur issued by a former government, which was at the time of the issue the duly authorized agent for that purpose of the State of Virginia,) did recently assume to act as consul for a place other than the city of Richmond, and a State other than the State of Virginia, and was thereupon, on the 20th day of February last, 1863, requested by the secretary of state to submit to the department of state his consular commission, as well as any other authority he may have received to act in behalf of the government of her Britannic Majesty, before further correspondence could be held with him as her Majesty's consul at the port of Richmond; and whereas the said George Moore has lately, without

acceding to said request, entered into correspondence as her Majesty's consul with the secretary of war of these Confederate States, thereby disregarding the legitimate authority of this government:

These, therefore, are to declare that I do no longer recognize the said George Moore as her Britannic Majesty's consul in any part of these Confederate States, nor permit him to exercise and enjoy any of the functions, powers, or privileges allowed to the consuls of Great Britain. And I do wholly revoke and annul any exequatur heretofore given to the said George Moore by the government which was formerly authorized to grant such exequatur as agent of the State of Virginia, and do declare the said exequatur to be absolutely null and void from this day forward.

In testimony whereof I have caused these letters to be made patent, and the seal of the Confederate States of America to be hereunto affixed.

Given under my hand this fifth day of June, in the year of our Lord one thousand eight hundred and sixty-three.

JEFFERSON DAVIS.

By the President :

J. P. BENJAMIN, *Secretary of State.*

[Enclosure 4 in No. 1.]

Consul Moore to Mr. Benjamin.

RICHMOND, June 6, 1863.

SIR: I have the honor to acknowledge your communication of yesterday's date, transmitting to me the letters patent of the president, revoking my exequatur as her Britannic Majesty's consul for the State of Virginia.

Without communicating upon this act, I simply acknowledge its reception, which I will communicate to my government by the first opportunity.

I have, &c.,

GEO. MOORE.

No. 2.

(*Lord Lyons to Earl Russell. — (Received June 28.)*)

[Extract.]

WASHINGTON, June 16, 1863.

Mr. Moore arrived here yesterday, and delivered to me a despatch dated the 6th instant, reporting that his exequatur had been withdrawn by Mr. Davis, which he had intended to forward to me by a messenger if the confederate authorities had allowed him to send one. A copy of it goes to your lordship to-day, enclosed in a despatch which Mr. Moore addressed to you on the 9th instant, and which he brought here with him.

I do myself the honor to transmit to your lordship copies of the following papers which have been delivered to me by Mr. Moore:

1. Despatch from Mr. Moore to me reporting arrangements made by him for the protection of British subjects.

2. Despatch from Mr. Moore to me informing me of the intention of Mr. Acting Consul Walker with regard to the objections raised in his case by Mr. Benjamin, enclosing a copy of the despatch to your lordship, No. 23, above mentioned, and asking my leave to quit Richmond.

3. Despatch from Mr. Moore to me, explaining his reasons for leaving Rich-

mond without waiting for an answer from me, and expressing his wish to go on immediately to England.

4. Letter from the confederate adjutant general to the commandant of conscripts at Macon, Georgia, containing instructions respecting the liability of foreigners to conscription.

5. Letter from Mr. Benjamin to the French consul at Richmond, informing him that the president of the Confederate States has determined to permit no direct communication between consuls in those States and the functionaries of their governments residing within the "enemy's lines."

6. An extract from the Richmond newspaper, *Sentinel*, containing a copy of a despatch from Mr. Benjamin to Mr. Mason, stating the reasons for the withdrawal of Mr. Moore's exequatur, and for forbidding direct communication between consuls in the Confederate States and the legations in the United States. Mr. Mason is instructed to communicate this despatch to your lordship.

I do not purpose to make any endeavor to alter the arrangements which Mr. Moore has made for the protection of British subjects. M. Mercier hastened to assure me that he should be happy to instruct M. Paul, the French consul at Richmond, (who happens to be at this moment at Washington,) to take charge of the British consulate on his return to his post. I have not, however, thought it advisable to accept this offer. It is doubtful whether the confederate authorities would recognize such an arrangement. Indeed, the fact—of which they could not be kept in ignorance—that it had been made by the British and French ministers at Washington would no doubt induce them to object to it; and at all events they would not, it is to be presumed, allow M. Paul to interfere in any matters not pertaining to the precise district to which the jurisdiction of the consulate of which he was in charge extended. Mr. Moore is himself confident that the arrangement he has made will be in practice much more advantageous to British subjects than placing them under the protection of any foreign consul: I think it therefore better that this matter shall remain as Mr. Moore has left it, until your lordship issues orders concerning it.

It is plain that Mr. Moore's returning to Richmond would be of no service whatever to British interests; I have therefore told him that I see no objection to his going to England as he wishes. He intends to embark in a few days.

I think that, so far as this legation is concerned, it would be an advantage that its connexion with the consular officers in territory held by the confederates should be dissolved. The communication is so slow and uncertain that intelligence seldom reaches me from those officers in time to be of any value. For the same reason they cannot obtain special instructions from me in any sudden contingency, while general instructions to them would be sent with much greater advantage from the foreign office than from this legation. The communications between the consuls in the south and the legation have always tended to give rise to suspicion in the United States; they have now been denounced as offensive by the confederate authorities. Your lordship will observe that notwithstanding my repeated instructions to the consuls never to allude to me or to the legation in their communications with those authorities, and notwithstanding the care which has been taken at your lordship's office to address instructions to the consuls directly instead of desiring me to transmit them, Mr. Benjamin, in his despatch to Mr. Mason, dwells on the connexion between the consuls and this legation as the main reason for the measures which Mr. Davis has adopted.

There was one great advantage in the existing arrangement which can hardly be said to exist any longer. We had for some time consuls at the southern ports recognized as such by both belligerents, and this was convenient in cases in which ports in the south were attacked by the federals. I have not heard of any objection having been made by the confederates to Mr. Fullarton as acting consul at Savannah, but the recognition by them of Mr. Walker as acting consul at Charleston and of Mr. Cridland as acting consul at Mobile appears to be very

doubtful; and even supposing all these acting consuls to be recognized, the confederate authorities will still refuse to allow them to interfere in behalf of British subjects beyond the exact limits to which the jurisdiction of the respective consulates extends, and this will leave the greater part of the British subjects in the Confederate States without protection.

[Enclosure 1 in No. 2.]

Consul Moore to Lord Lyons.

RICHMOND, June 9, 1863.

MY LORD: I have the honor to state that as the exigencies of the public service here are such that they cannot be abruptly broken off without the most serious detriment to British subjects resident in the southern States, I have deemed it expedient without loss of time to adopt the following measure for the protection of her Majesty's subjects. I have issued the following notice in the local newspapers, namely:

"NOTICE TO BRITISH SUBJECTS.—British subjects requiring professional advance connected with questions of their nationality are recommended by Mr. George Moore, late her Britannic Majesty's consul for the State of Virginia, to apply to Mr. G. A. Myers, attorney-at-law, on 12th, between Capitol and Broad streets, Richmond."

Mr. Myers is a very competent person, to whom British interests can be most implicitly confided, and I have no hesitation in assuming any degree of responsibility in recommending this gentleman as the keeper of the archives of this consulate, and custodian of British interests, until ulterior arrangements can be determined upon. Mr. Myers stands high in the estimation of every member of the administration here, and he is one of the most prominent and respectable citizens of Richmond. The assistance which he has rendered to this consulate is such that I believe the business of this office could never have been conducted with satisfactory result without his friendly and gratuitous aid, which Mr. Cridland, I know, proposes to represent to her Majesty's government.

Under the circumstances I trust that the present arrangement and my prospective suggestion will meet with your lordship's concurrence.

I have, &c.,

GEO. MOORE.

[Enclosure 2 in No. 2.]

Consul Moore to Lord Lyons.

WASHINGTON, June 16, 1863.

MY LORD: Since I had the honor of addressing your lordship from Richmond, I have orally explained the reasons which induced me to appear before you personally without awaiting your lordship's instructions, in consequence of the unexpected order issued by Mr. Benjamin, the secretary of state of the so-styled Confederate States, prohibiting all further direct communications "between the consuls of neutral nations in the confederacy and the functionaries of those nations residing in the north."

Therefore, as my exquatur as consul for the State of Virginia has been annulled, I propose (if it should meet with your lordship's concurrence) to proceed forthwith to England, and report myself to Earl Russell.

I also have the honor of enclosing herewith the copy of a communication dated Confederate States of America, Bureau of Conscription, Richmond, Virginia, May 22, 1863, addressed to the commandant of conscripts, Macon, Georgia, on the subject of persons who are not held as liable to conscription.

I have, &c.,

Digitized by Google
GEO. MOORE.

[Enclosure 3 in No. 2.]

Colonel Lay to the Commandant of Conscripts, Macon, Georgia.

BUREAU OF CONSCRIPTION,
Richmond, Va., May 22, 1863.

SIR: The letter of Colonel Weems of the 24th March ultimo, to Lieutenant S. J. Perry, has been forwarded to this bureau. The opinion expressed by him that "foreigners who have purchased real estate thereby declare their domicile in the Confederate States," and are subject to conscription, notwithstanding the protection given them in their consulate papers, is not concurred in by this bureau, and cannot be sustained upon principle and authority; nor is it in conformity with the rules laid down in General Order No. 82 of 1863.

That order does not prescribe any new rule in relation to domicile. It merely declares what is well settled and familiar law upon the subject. It mentions that "the declarations of the party, the exercise of the rights of citizenship, marriage, and the acquisition of real estate, are the principal evidences of intention to remain;" but it nowhere declares that either one of these is conclusive of the fact. Yet such is your decision. A party may have made declarations upon the subject so at variance with his acts and with the circumstance attending his residence as to require the declarations to be disregarded or respected. So marriage of itself, unless there be other proof of residence and intention to remain and abandon the former domicile, is not sufficient. Instances are not wanting of diplomatic agents intermarrying with the women of the country to which they have been accredited, and continuing for years afterwards in the discharge of their official duties. No one ever supposed that by such an act the ambassador or other diplomatic agent renounced either his domicile or nationality. A foreigner may exercise the highest act of citizenship, the right of suffrage, without changing his domicile or losing his original citizenship. If the act be done either in ignorance or fraud of the law his status is not thereby changed. And so he may acquire and purchase real estate. In some of the States laws have been passed in pursuance of treaty stipulations which enable foreigners to purchase, hold, transmit and inherit real estate. In most of the States a foreigner cannot hold real estate without making a declaration of his intention to become a citizen. In such States a foreigner may purchase real estate without making the required oath or declaration. The property may be liable to escheat, and upon proper proceedings had he may lose his property, but he cannot thereby be deprived of his national character, or lose his right as a citizen of a foreign country. Again, a foreigner might, in ignorance of the law forbidding him to hold real estate, become a purchaser of it; in such a case it could not with propriety be said that he intended by the act of purchase to change his domicile. The fact of such a purchase is reconcilable with the most decided purpose not to change his domicile. A man is presumed to hold his domicile of nativity until another is obtained, and to constitute this change the fact and intention must concur. It is extremely difficult, if not impossible, to prescribe the circumstances which shall in every case be taken as satisfactory proof of intention to change the domicile.

But whatever the character of the evidence may be, it must be such as to satisfy the mind fairly and reasonably that the party has not only changed his domicile in point of fact, but that he so intended.

Brigadier General Rains, superintendent of conscription, has directed me to issue the foregoing instructions for your information and guidance.

Very respectfully, &c.,

G. W. LAY.

[Enclosure 4 in No. 2.]

Mr. Benjamin to M. Paul.

DEPARTMENT OF STATE,

Richmond, June 10, 1863.

SIR: It becomes my duty to inform you that the president has determined to permit no direct communication between consuls and consular agents of foreign countries residing within the confederacy and the functionaries of such foreign governments residing in the enemy's lines. The passage in future of consular couriers, messengers, or of consuls or of consular agents themselves, through the confederate lines to the enemy, is accordingly prohibited, and foreign officials will be allowed to communicate with their governments only directly or through neutral countries.

I am, &c.,

J. P. BENJAMIN.

[Enclosure 5 in No. 2.]

Extract from the "Richmond Sentinel" of June 12, 1863.

DESPATCH TO MR. MASON.—We publish, by official consent, the following despatch of the secretary of state of the Confederate States to Mr. Mason, our commissioner to England.

It makes known the causes of the late revocation of the exequatur of the British consul at this port, and in doing so takes occasion to explain the general grounds of the president's action, and the views which govern the policy which he is firmly and steadily pursuing.

It will be seen that the confederate government is held by the president to be the agent of the States for certain purposes; that it is the successor of a similar agent whose acts while its authority existed were valid; and that succeeding to the trust, the confederate authorities are bound to respect all constitutional acts performed by the former agent with the consent of the State concerned. Hence, argues the secretary, "when Virginia seceded, withdrew the powers delegated to the government of the United States, and conferred them on this government, the exequatur granted to Consul Moore was not thereby invalidated." Being the act of Virginia, through her agent, in the first instance, it remained her act, though her agent had been changed.

This is manifestly the true State-rights doctrine. It would be monstrous if, when a State selects a new agent to attend thenceforth to certain interests, this new servant should begin by treating as null and void whatever she might have done through her former one. This would be to assume that the sovereign authority lies in the temporary agent rather than in the abiding State. The view of the president will commend itself to the hearty approbation of the people, who will see in it another proof of the scrupulous respect which he pays to the rights of the States and the established principles of our government.

The letter to Mr. Mason shows also that the president has acted in good faith on his opinion as to the validity of existing exequaturs. He has not sought difficulties with the consuls or revoked their exequaturs with any idle and mistaken view of extorting recognition from European powers. He has conceded to foreigners all their international rights, and has cultivated the spirit of amity with other nations so far as consistent with our own honor and dignity. England is no exception to this remark.

We are fully persuaded that the foreign policy of the president, as exhibited in the letter to Mr. Mason, will receive the warm approval and support of the confederate people. Some there may be who would prefer rash and violent coun-

sels, but the great mass of our citizens will approve the steady course which, unmoved by thoughtless clamor, the president has pursued. They will be discerning enough to see that it is much better and far more creditable to us for our international affairs thus to be conducted with dignity and in decent temper, and that it would but expose us to ridicule to dismiss a few foreign consuls from our beleaguered ports, and withdraw the agents whom for our own interest and convenience we have sent to Europe, in the childish expectation that we should thereby intimidate and coerce Europe to recognize our independence. The day for such fancies has past. What the great need for our cotton cannot do for us, the dismissal of a few petty consuls will hardly accomplish.

DEPARTMENT OF STATE.

Richmond, June 6, 1863.

SIR: Herewith you will receive copies of the following papers:

(A.) Letter of George Moore, esq., her Britannic Majesty's consul in Richmond, to this department, dated 16th February, 1863.

(B.) Letter from the secretary of state to Consul Moore, 20th February, 1863.

(C.) Letters-patent by the president, revoking the exequatur of Consul Moore, 5th June, 1863.

(D.) Letter enclosing to Consul Moore a copy of the letters-patent revoking his exequatur.

It is deemed proper to inform you that this action of the president was influenced in no small degree by the communication to him of an unofficial letter of Consul Moore, to which I shall presently refer.

It appears that two persons named Molony and Farrell, who were enrolled as conscripts in our service, claimed exemption on the ground that they were British subjects, and Consul Moore, in order to avoid the difficulty which prevented his corresponding with this department, as set forth in the paper (B.) addressed himself directly to the secretary of war, who was ignorant of the request made by this department for the production of the consul's commission. The secretary of war ordered an investigation of the facts, when it became apparent that the two men had exercised the right of suffrage in this State, thus debarring themselves of all pretext for denying their citizenship; that both had resided here for eight years, and had settled on and were cultivating farms owned by themselves. You will find annexed the report of Lieutenant Colonel Edgar, marked (E.) and it is difficult to conceive a case presenting stronger proofs of the renunciation of native allegiance, and of the acquisition of *de facto* citizenship, than are found in that report. It is in relation to such a case that it has seemed proper to Consul Moore to denounce the government of the Confederate States to one of its own citizens as being indifferent "to cases of the most atrocious cruelty." A copy of his letter to the counsel of the two men is annexed, marked (F.)

The earnest desire of this government is to entertain amicable relations with all nations, and with none do its interests invite the formation of closer ties than with Great Britain. Although feeling aggrieved that the government of her Majesty has pursued a policy which, according to the confessions of Earl Russell himself, has increased the disparity of strength which he considers to exist between the belligerents, and has conferred signal advantage on our enemies, in a war in which Great Britain announces herself to be really and not nominally neutral, the president has not deemed it necessary to interpose any obstacle to the continued residence of British consuls within the confederacy by virtue of exequaturs granted by the former government. His course has been consistently guided by the principles which underlie the whole structure of our government. The State of Virginia having delegated to the government of the United States by the Constitution of 1787 the power of controlling its foreign relations, became

bound by the action of that government in its grant of an exequatur to Consul Moore. When Virginia seceded, she withdrew the powers delegated to the government of the United States and conferred them on this government; the exequatur granted to Consul Moore was not thereby invalidated. An act done by an agent while duly authorized continues to bind the principal after the revocation of the agent's authority. On these grounds the president has hitherto steadily resisted all influences which have been exerted to induce him to exact of foreign consuls that they should ask for an exequatur from this government as a condition of the continued exercise of their functions. It was not deemed compatible with the dignity of the government to extort, by enforcing the withdrawal of national protection from neutral residents, such inferential recognition of its independence as might be supposed to be implied in the request for an exequatur. The consuls of foreign nations, therefore, established within the confederacy, who were in possession of an exequatur issued by the government of the United States prior to the formation of the confederacy, have been maintained and respected in the exercise of their legitimate functions, and the same protection and respect will be accorded to them in future, so long as they confine themselves to the sphere of their duties, and seek neither to evade nor defy the legitimate authority of this government within its own jurisdiction.

There has grown up an abuse, however, the result of this tolerance on the part of the president, which is too serious to be longer allowed. Great Britain has deemed it for her interest to refuse acknowledging the patent fact of the existence of this confederacy as an independent nation. It can scarcely be expected that we should, by our own conduct, imply assent to the justice or propriety of that refusal. Now that the British minister accredited to the government of our enemies assumes the power to issue instructions and exercise authority over the consuls of Great Britain residing within this country, nay, even of appointing agents to supervise British interests in the Confederate States, this course of conduct plainly ignores the existence of this government, and implies the continuance of the relations between that minister and the consuls of her Majesty resident in the confederacy which existed prior to the withdrawal of these States from the Union. It is further the assertion of a right, on the part of Lord Lyons, by virtue of his credentials as her Majesty's minister at Washington, to exercise the power and authority of a minister accredited to Richmond, and officially received as such by the president. Under these circumstances, and because of similar action by other ministers, the president has felt it his duty to order that no direct communication be permitted between the consuls of neutral nations in the confederacy and the functionaries of those nations residing within the enemy's country. All communication, therefore, between her Majesty's consuls or consular agents in the confederacy and foreign countries, whether neutral or hostile, will hereafter be restricted to vessels arriving from or despatched for neutral ports. The president has the less reluctance in imposing this restriction because of the ample facilities for correspondence which are now afforded by the fleets of confederate and neutral steamships engaged in regular trade between neutral countries and the confederate ports. This trade is daily increasing in spite of the paper blockade which is upheld by her Majesty's government, in disregard, as the president conceives, of the rights of this confederacy, of the dictates of public law, and of the duties of impartial neutrality.

You are instructed by the president to furnish a copy of this despatch, with a copy of the papers appended, to her Majesty's secretary of state for foreign affairs.

I am, &c.,

J. P. BENJAMIN,
Secretary of State.

HON. JAMES M. MASON,
Commissioner, &c., &c., London.

No. 3.

Acting Consul Cridland to Earl Russell.—(Received August 30.)

MOBILE, June 15, 1863.

MY LORD: I had the honor to report to your lordship that I had arrived in this city, and, after getting possession of the seals and archives of this consulate, had entered on my duties as acting consul.

On the 2d of June, according to the desire of Lord Lyons, M. Portz, French vice-consul, introduced me to the naval and military authorities here, having jurisdiction in this department, and exhibited to those officers a despatch from Lord Lyons, dated April 30, which I had presented to M. Portz on my arrival, informing that gentleman of my acting appointment, and asking him to deliver to me the archives and seals of office, and to introduce me to the authorities.

The general commanding informed me that he would issue orders in regard to my official acts at Mobile. Her Majesty's consulate remained open from the 29th of May to the 7th instant, and my official acts were evidently respected. On the 7th of June, however, a letter was left at this office from the military headquarters of this district, dated that day, informing me that the orders issued on the 2d June, recognizing me as acting British consul, had been revoked, and requesting me to suspend the exercise of all consular functions.

I have the honor to enclose a copy of that letter, dated June 7, and of my answer thereto, dated June 8.

On Saturday, the 13th instant, Colonel Garner, chief of the staff of the major general commanding in Alabama, delivered to me a letter dated June 7, addressed to me by Mr. Benjamin, secretary of state at Richmond, a copy of which I beg to enclose for your lordship's inspection, and also a copy of my answer to Mr. Benjamin, dated June 13.

In that despatch your lordship will see that I was not only informed by Mr. Benjamin that I could not be permitted to exercise consular functions at Mobile, but that I was further requested to remove from the State of Alabama.

I beg to inform your lordship that at the unofficial interview with Mr. Benjamin on the 18th of May he remarked to me, after what I stated to him, and which I have recapitulated in my reply to his letter, that he was perfectly aware that as acting consul to Mobile I did not require a commission, and consequently could have no exequatur, all of which he seems to have since forgotten, and desires to convey the idea that he was not aware of my appointment as acting consul.

I felt that I had no authority to show Mr. Benjamin Lord Lyons's letter addressed to M. Portz.

In a private note to Mr. Benjamin I have asked permission to remain at Mobile till I can hear from Lord Lyons in regard to the disposal of the seals and archives of the office, and I am now awaiting a reply.

I have the honor to state that I have reported the entire case to Lord Lyons, and enclosed copies of the correspondence.

Requesting instructions from your lordship.

I have, &c.,

FRED. J. CRIDLAND.

[Enclosure 1 in No. 3.]

Colonel Garner to Acting Consul Cridland.

HEADQUARTERS DEPARTMENT OF THE GULF,
Mobile, Alabama, June 7, 1863.

SIR: The major general commanding directs me to revoke the letter from these headquarters of the 2d instant, addressed to G. M. Parker, provost mar-

shal, Mobile, Alabama, recognizing you as acting British consul, and as such entitled to all the privileges enjoyed by Mr. James Magee.

You will please, therefore, suspend the exercise of all consular functions.

Very respectfully, &c.,

GEO. G. GARNER,
Chief of Staff.

[Enclosure 2 in No. 3.]

Acting Consul Cridland to Colonel Garner.

MOBILE, June 8, 1863.

I have the honor to acknowledge the receipt of your communication of the 7th instant, informing me that the major general commanding has directed you to revoke the letter issued from your headquarters on the 2d instant, addressed to the provost marshal of Mobile, Alabama, recognizing me as acting British consul; further, directing me to suspend the exercise of all consular functions.

Due notice is taken of the major general's instructions and request.

I am, &c.,

FRED. J. CRIDLAND.

[Enclosure 3 in No. 3.]

Mr. Benjamin to Acting Consul Cridland.

DEPARTMENT OF STATE,
Richmond, June 8, 1863.

SIR: Having been informed through Admiral Buchanan that you have been introduced to him as acting English consul at Mobile, and have shown him an official document, signed by Lord Lyons, appointing you to that office, you are informed that you cannot be permitted to exercise the functions of that office under that appointment.

As you informed this department that you were going to Mobile to look after British interests unofficially, and failed to communicate the fact that you were bearer of an appointment from Lord Lyons, it is deemed best to avoid any misunderstanding on the subject by requesting you to select some other residence within the confederacy than the State of Alabama.

I am, &c.,

J. P. BENJAMIN.

[Enclosure 4 in No. 3.]

Acting Consul Cridland to Mr. Benjamin.

MOBILE, June 13, 1863.

SIR: I have the honor to acknowledge the receipt of your communication of the 8th instant, stating that you have been informed, through Admiral Buchanan, that I had been introduced to him as acting English consul at Mobile, and had shown him an official document, signed by Lord Lyons, appointing me to that office, and informing me that I cannot be permitted to exercise the functions of that office under that appointment.

Stating further, that as I had informed your department that I was going to Mobile to look after British interests unofficially, and had failed to communicate the fact that I was the bearer of an appointment from Lord Lyons, it is deemed best to avoid any misunderstanding on the subject, by requesting me to select some other residence within the confederacy than the State of Alabama.

In reply to the above I beg to state that, according to the request of Lord Lyons, I did on my arrival here deliver a letter to M. Portz, French vice-consul and late acting British consul, stating that her Majesty's government had directed me to take charge of her Majesty's consulate at Mobile, with the character of acting consul, and asking M. Portz to be so kind as to present me to the local authorities, and to assist me in entering upon my functions as her Majesty's acting consul at Mobile.

With regard to the last paragraph of your communication, I am under the impression and belief that at the interview with yourself on the 18th of May, I informed you that as the Richmond papers had stated that I was going "to Mobile with a full consul's commission in my pocket, and an exequatur from the United States government," I came to deny that statement, and to inform you that I was going to Mobile to do what Mr. Magee had previously done as acting consul, and that I had a letter to M. Portz from Lord Lyons, asking that gentleman to deliver the archives of the consulate to me. As the letter of Lord Lyons was not addressed to me I did not call it a commission.

Your request for me to select some other residence within the confederacy than the State of Alabama will of course be duly attended to.

I am, &c.,

FRED. J. CRIDLAND.

No. 4.

Earl Russell to Acting Consul Cridland.

FOREIGN OFFICE, *September 8, 1863.*

SIR: In reply to your despatch of the 11th of July, I have to instruct you to ask leave to be allowed to remain at Mobile; but if you are not allowed to do so you will go to Richmond and there await instructions.

I am, &c.,

RUSSELL.

No. 5.

Mr. Stuart to Earl Russell.—(Received September 14.)

[Extract.]



WASHINGTON, *August 29, 1863.*

I have the honor to forward to your lordship the accompanying copies of five despatches from Mr. Cridland, reporting his arrival at Mobile, and the subsequent refusal of the confederate authorities to permit him to exercise his consular functions or even to reside in the State of Alabama.

Your lordship will perceive that Mr. Cridland eventually succeeded in obtaining permission from the secretary of state at Richmond to remain at Mobile until her Majesty's government shall have had time to consider the whole subject—a month or two from the 3d of July being the time within which Mr. Benjamin supposed that Mr. Cridland might receive instructions from your lordship.

The question having been referred to your lordship, Lord Lyons considers it unadvisable that any instructions should be sent from hence to Mr. Cridland. His lordship has, however, observed to me that he has always been most anxious that his name or that of this legation should not be employed in any communications made to the confederate authorities by her Majesty's consular

agents in the south, and in instructing Mr. Consul Moore to send Mr. Cridland to Mobile he expressly desired that the letter of appointment should be made out by Mr. Moore as emanating from her Majesty's government, instead of from Washington.

[Enclosure 1 in No. 5.]

Acting Consul Cridland to Lord Lyons.

MOBILE, May 28, 1863.

MY LORD: I have the honor to report to your lordship that I arrived at the port of Mobile on the 27th instant, and entered on my duties as British acting consul this day.

I delivered your lordship's letter of the 30th April to M. Portz, who at once made over to me the archives and the seals of the office.

Not having as yet had the occasion to communicate with the local or so-called confederate authorities, I cannot now report to your lordship whether my requests will meet with a favorable consideration or not at their hands.

I have, &c.,

F. J. CRIDLAND.

[Enclosure 2 in No. 5.]

Acting Consul Cridland to Lord Lyons

MOBILE, June 8, 1863.

MY LORD: On the 28th of May I had the honor to report to your lordship that I had entered on my duties as British acting consul at this port.

On the 2d instant, in accordance with your lordship's request, M. Portz, French vice-consul, introduced me to the naval and military authorities here, having jurisdiction in this department, and exhibited to General Maury and Admiral Buchanan your lordship's despatch dated April 30, which I had presented to M. Portz on my arrival.

The interviews were quite pleasant, and General Maury informed me that he would issue orders in regard to my official acts at Mobile.

Her Majesty's consulate remained open all last week, and my official acts were evidently respected.

Yesterday a communication was left at the consulate from the military headquarters of this department, dated 7th June, a copy of which I beg to enclose herewith, and also of my answer thereto dated this day.

General Maury has informed me unofficially that the orders had come from Richmond.

By the communication received yesterday, your lordship will perceive that my consular functions are now suspended. I continue to attend as usual in the office, and inform British subjects of the fact.

Awaiting instructions from your lordship for my future guidance, I have, &c.

F. J. CRIDLAND.

[For enclosure 3 in No. 5, Colonel Garner to Acting Consul Cridland, June 7, 1863, see enclosure 1 in No. 3.]

[For enclosure 4 in No. 5, Acting Consul Cridland to Colonel Garner, June 8, 1863, see enclosure 2 in No. 3.]

[Enclosure 5 in No. 5.]

Acting Consul Cridland to Lord Lyons.

MOBILE, June 13, 1863.

MY LORD : I have the honor to place before your lordship the copy of a letter dated 8th instant, addressed to me by Mr. Benjamin, secretary of state of the so-called Confederate States, and which was delivered to me this morning open, by order of General Maury, military commandant of this department, informing me that I cannot be permitted to exercise consular functions at Mobile, and further requesting me to remove from this State.

In my despatch to your lordship dated June 8 I reported all that had taken place on my being introduced by M. Portz to the authorities, and of what had occurred up to the date of that despatch.

I have also the honor to enclose herewith a copy of my reply to Mr. Benjamin's communication dated to-day, and have only further to state that at the unofficial interview with that gentleman on the 18th of May, he remarked to me, after what I stated to him, and which I have recapitulated in my reply to his letter, that he was perfectly aware that as acting consul to Mobile I did not require a commission, and consequently could have no exequatur, all of which he seems to have since forgotten, and desires to convey the idea that he was not aware of my appointment as acting consul. I felt that I had no authority to show him your lordship's letter to M. Portz.

I have addressed a private note to Mr. Benjamin, requesting permission to remain here till I can hear from your lordship in regard to the disposal of the seals and archives of the consulate, and now await his reply, which I will also place before your lordship.

I have, &c.,

FRED. J. CRIDLAND.

[For enclosure 6 in No. 5, Mr. Benjamin to Acting Consul Cridland, June 8, 1863, see enclosure 3 in No. 3.]

[For enclosure 7 in No. 5, Acting Consul Gridland to Mr. Benjamin, June 13, 1863, see enclosure 4 in No. 3.]

[Enclosure 8 in No. 5.]

Acting Consul Cridland to Lord Lyons.

MOBILE, June 25, 1863.

MY LORD : In my despatch dated 13th instant I had the honor to inform your lordship that with my reply to Mr. Benjamin's letter of the 8th of June I had in a private note requested permission to remain in Mobile till I could obtain instructions from your lordship with regard to the disposal of the archives of this consulate.

Mr. Benjamin has replied to my note, but unfavorably, so that I am packing up the papers of this office, and will place them in the hands of one of the most respectable and discreet persons in this city, M. Wauroy, the Dutch consul.

The following are Mr. Benjamin's words in reply to my request :

"You need not hurry at all to leave Mobile, but it is desirable that your stay there should be limited, as the local authorities may be misled by your remaining there, and difficulties may arise. It is solely to avoid such difficulties that you were requested not to continue your residence there."

I have, &c.,

FRED. J. CRIDLAND.

[Enclosure 9 in No. 5.]

Acting Consul Cridland to Lord Lyons.

MOBILE, July 11, 1863.

MY LORD: In a despatch dated the 26th June last I had the honor to inform your lordship that the authorities at Richmond had refused me permission to remain here till I could receive instructions from your lordship with regard to the disposal of the archives of this consulate.

On that same date, however, I again asked for the permission, stating that, foreseeing the difficulty of obtaining instructions in the case from your lordship, I had applied for the same to Earl Russell.

I have received a reply from Mr. Benjamin, a copy of which I have forwarded to Earl Russell, and now submit the same to your lordship.

I have, &c.,

FRED J. CRIDLAND.

[Enclosure 10 in No. 5.]

Mr. Benjamin to Acting Consul Cridland.

RICHMOND, July 3, 1863.

DEAR SIR: Under the circumstances mentioned in your private letter of the 25th ultimo, just received, your continued residence in Mobile will not be disturbed until your government has had time to make such disposal of the whole subject as may seem best to it.

I doubt not that instructions will arrive in a month or two.

Yours, &c.,

J. P. BENJAMIN.

No. 6.

Lord Lyons to Earl Russell.—(Received October 29.)

WASHINGTON, October 16, 1863.

MY LORD: I have the honor to enclose an extract from the New York Herald of the 12th instant, containing a summary, quoted from a southern newspaper, of a correspondence which would appear to have taken place between Mr. Acting Consul Fullarton and the governor of the State of Georgia, respecting the claim of the State to force British subjects to serve in its militia.

I have no other information respecting this correspondence.

I have, &c.,

LYONS.

[Enclosure in No. 6.]

[Extract from the New York Herald of October 12, 1863.]

BRITISH SUBJECTS DRAFTED FOR MILITARY SERVICE IN REBEL STATES ORDERED TO THROW DOWN THEIR ARMS.—GEORGIA AND GREAT BRITAIN.—A Mr. Fullarton, who dates letters from the British consulate at Savannah, who signs himself "Acting Consul," and who informs the governor of Georgia that he has "submitted his authority to act as British consul to Mr. Benjamin, who

duly accorded to him his approval and recognition," has had the audacity to give formal intimation to Governor Brown that he has advised those residents of Georgia who claim to be British subjects, and who are or may be drafted into the militia under the late call, that if they are required "to leave their immediate homes" or "to meet the United States forces in actual conflict," in such event they should "throw down their arms."

Mr. Fullarton goes further than this. While admitting the duty of British residents to defend their homes against "invasion by a foreign power," he adds, "but not in a civil war like that which now rages on this continent." Mr. Fullarton has considered the matter, and has judged and concluded—and coolly informs the governor of Georgia of his conclusion—that Georgia is still a portion of the United States, and is engaged in a civil war against fellow-citizens of other States.

Here we must remark that Mr. Fullarton could not possibly judge or conclude otherwise. He, as acting British consul in Savannah, is not accredited by his government to our government; he knows nothing of our government; if he has any credentials at all, they are addressed to Mr. Lincoln's government at Washington; and Mr. Benjamin, acting (we must presume) for that government at Washington, has approved and recognized Mr. Fullarton. Here we are in the habit of regarding Mr. Benjamin as secretary of state for the confederacy; but British consuls and their government know him only as a kind of agent for Mr. Lincoln, doing Mr. Seward's business here for the time the "civil war" may last.

We desire to know—and the country will demand to know—what "authority was submitted" by Mr. Fullarton to Mr. Benjamin, and which the latter found so satisfactory, and upon which he "approved and recognized" a person who is to reside in Savannah and protect the residents of Georgia against the laws of the State, and inform the governor of Georgia that he is a rebel, waging civil war against his own government, and advise a certain portion of the Georgia militia to throw down their arms if they are expected to defend their State against the enemy. Was that authority thus submitted to Mr. Benjamin an appointment by Mr. Molyneux, the former consul at Savannah? or was it a letter from Lord Lyons, the British minister at Washington? or was it an exequatur granted by Mr. Seward at Washington? All we know for certain is, that it was not any regular appointment of a consul accredited to the Confederate States.

One cannot but admire the patience and courtesy of Governor Brown in dealing with this most insolent "acting consul." But he does not recede an inch from his position, and the abstract which we append of the essential parts of the correspondence will satisfy our readers that the dignity of the confederacy and of the State are safe in the hands of Governor Brown.

Under date of the 22d July, Mr. Fullarton writes the first letter from the "British consulate," demanding the exemption of British subjects from the duty of defending the place of their residence, unless against foreign powers. Here is an extract:

"Her Majesty's government acknowledge the right of a foreign state to claim the services of British subjects resident within its limits, for the purpose of maintaining internal order—in other words, to act as a local police force, and even, to a limited extent, to defend against local invasion by a foreign power the places of their residence; but they deny the claim to service beyond this, and accordingly I have given advice in the following sense to British subjects who have applied to me on the subject of this draft—that militia duty is in general an obligation incident to foreign residence, and that therefore they must not object to render the service required so long as the law requires a militia organization for the maintenance of internal peace and order. But if it shall so happen that the militia, after being so organized, shall be brought into conflict with the forces of the United States, without being turned over to the Confederate States, so as to form a component part of its armies, or if it should be so turned over, in either

event the service required would be such as British subjects cannot be expected to perform."

On the 8th of August Governor Brown replies; informs Mr. Fullarton that he must have misunderstood the objects of that militia force; tells him that the enemy is preparing raids to devastate the country, and exciting insurrections of slaves. He then continues:

"It is needless for me to add that, in case they should be successful in inciting insurrections to this point, the butchery of helpless women and children would doubtless be the result.

"As a means of accomplishing this object, as well as of destroying public and private property, the enemy is now preparing to send cavalry raids as far as possible into this and other States of the confederacy. These robber bands will, no doubt, burn and destroy property where they go, carry off as many slaves as they can, and attempt to stir up others with whom they come in contact to insurrection, robbery, and murder.

"It is not expected that the 8,000 men called for by my proclamation, and the general order to which you refer, will be used against the regular armies of the United States. The provisional armies of the Confederate States have shown themselves fully able to meet the enemy upon a hundred battle-fields, and to drive them back with severe chastisement, wherever they have not had the advantage of their navy as a support. But it is expected that this home organization, while it may be but little of its time in actual service, will, in case of sudden emergency, assist in repelling the plundering bands of the enemy, which evade contact with our armies and make predatory incursions to our very homes for the purposes already mentioned; and that they will assist in suppressing any servile insurrections which these plundering parties may be able to incite.

"Many who claim to be her Majesty's subjects, in this State, are large slaveholders, whose danger of loss of property, and of insult and cruel injury to their wives and children, in case of insurrection, is as great as the danger to the citizens of this State, and their obligation to protect their property and their families against the local aggressions of the United States forces is no less.

"While her Majesty's government has constantly refused to recognize the existence of the government of the Confederate States, her citizens have enjoyed its protection. And while she refuses to hold any diplomatic relations with us, you, as her representative, are permitted to represent her interests here and to be heard for the protection of her subjects and their property. In this state of things, British subjects, who still elect to remain in the confederacy, should not expect to do less than the service now required of them; and, while free egress will in no case be denied them, should they desire to depart from this State, less than the service now required will not in future be demanded, in case they choose to remain in the State and enjoy its protection."

Whereto Mr. Fullarton replies, on the 17th August. He says it was not he who misunderstood the affair, but Governor Brown:

"I perfectly understood the intentions of the government in organizing the force of 8,000 men for home defence, but I am obliged to conclude that you have misunderstood me when I admitted the right of the State to claim the services of British subjects resident within its limits, for the purpose of maintaining internal order, and even to a limited extent to defend the places of their residence against local invasion by a foreign power. Such service might be rendered by them in the event of a war by a foreign power, but not in a civil war like that which now rages on this continent.

"Her Majesty's government consider that the plainest notions of reason and justice forbid that a foreigner, admitted to reside for peaceful purposes in a State forming part of a federal union, should be compelled by that State to take an active part in hostilities against other States which, when he becomes a

resident, were members of one and the same confederacy. While acknowledging the right of the State, under present circumstances, to the services of British subjects for patrol or police duty, her Majesty's government object to any further extension of such service. I have consequently, under instructions, felt myself compelled to advise those drafted to acquiesce in the duty until they are required to leave their immediate homes, or to meet the United States forces in actual conflict; in that event, to throw down their arms and refuse to render a service the performance of which would run directly in the teeth of her Majesty's proclamation, and render them liable to the severe penalties denounced against a violation of the strict neutrality so strongly insisted on in that document."

And he adds this menace:

"The despatches which I have received from the British government relative to compulsory service are strong. I am instructed to remonstrate in the strongest terms against all attempts to force British subjects to take up arms. Should these remonstrances fail, the governments in Europe interested in this question will unite in making such representations as will secure to aliens this desired exemption."

To this the governor replies as becomes him:

"You virtually deny that the United States is a foreign power, and claim that Georgia is still a component part of the government of the United States. You have probably been influenced, in your persistence in this error, by the forbearance of the government and people of the Confederate States in permitting her Majesty's consuls to remain among us in the exercise of the function of a position to which they were originally accredited by the government of the United States. As it is no part of my purpose to enter into an argument to convince you that the United States is a hostile power, foreign to Georgia, I will dismiss this part of the controversy with the single remark that, if your pretensions be correct, your appeal for the protection of British subjects resident within this State should have been made to the government at Washington, and not to me.

"You are pleased to inform us that you have felt compelled to advise those drafted to acquiesce in the duty until they are required to leave their immediate homes, or to meet the United States forces in actual conflict; in that event, to throw down their arms and refuse to render a service the performance of which would run directly in the teeth of her Majesty's proclamation, &c. It is worthy of remark that the language you employ is 'to leave their immediate homes, or to meet the United States forces in actual conflict.' Your advice, then, to British subjects, if I correctly understand it, is that when the United States forces attack the immediate locality of their homes, or their own houses, they are not to defend them, as required by the laws of nations, against such local invasion; but they are to throw down their arms and refuse to fight for the protection of their domiciles. In reply to this, it is my duty to inform you that I can neither be bound by your pretensions that the United States is not a power foreign to Georgia, nor can I admit the right of her Majesty by proclamation to change the laws of nations, and insist upon maintaining her subjects here and exempting them from the performance of the duties imposed upon them by the laws of nations. When the troops now drafted have been turned over to the government of the Confederate States, to be held in readiness to repel local invasion, if they should, upon the approach of a hostile force, follow your advice and throw down their arms, that government will have the power to pardon for such conduct, or to strike their names from its muster-rolls, if it chooses to do so; but if an attack should be made by the enemy upon the immediate locality of their homes while I control and command the forces to which they are attached, and they should be guilty of conduct so unnatural and unmanly as to throw down their arms and refuse to defend their domiciles,

they will be promptly dealt with, as citizens of this State would be, should they be guilty of such dishonorable delinquency."

Here it is to be observed that it was prudent in the governor to answer only for himself; he knows very well what he will do, while he commands the State militia, to any of the State force who may throw down their arms in face of the enemy; but he cannot tell what the confederate authorities might do in such a case with Mr. Benjamin secretary of state.

Mr. Fullarton had asked if there would be any obstacle to the British residents leaving the country, even if already drafted, and intimates that this would deprive the confederacy of artisans and mechanics whose services were of "inestimable value." The governor responds:

"It is gratifying to know that there is no law of nations, or of this State, which throws any obstruction in the way of the removal of any British subject from the State who is not satisfied with the privileges and protection which he enjoys. You remind me, however, that not a few of them are mechanics, of whose inestimable services at this crisis the confederacy will be deprived in case of their removal. These mechanics have no doubt remained in this State because they felt it their interest to remain. And in reference to them, this State will very cheerfully adopt the rule which generally controls the British government. She will consult her own interest, and will exempt from military service for local defence such mechanics, who are aliens, as choose to remain, and as will be more serviceable in that capacity."

Mr. Fullarton next begins operations by demanding leave to quit the State for J. D. and F. M. Kiely, "two drafted British subjects." We give the whole of the governor's reply, which closes the correspondence, as we find it in the "Atlanta Intelligencer:"

"MARIETTA, September 14, 1863.

"DEAR SIR: I have the honor to acknowledge the receipt of your communication of the 12th instant, in which you request me to issue orders to the commanding officers to grant J. D. and F. M. Kiely, two drafted British subjects, residents of Rome, Georgia, leave to quit the State, and permission to remain unmolested in Rome thirty days, to settle their affairs in that city. This permission will be cheerfully granted upon the production to me of sufficient evidence that the persons named are British subjects.

"By an ordinance of the convention of this State, representing her people and her sovereignty, passed on the 16th day of March, 1861, it is declared:

"That all white persons resident in this State at the time of the secession of the State from the United States, with the *bona fide* intention of making it the place of their permanent abode, shall be considered as citizens of this State, without reference to their place of birth; provided that any persons not born in this State can except him or herself from the operations of this ordinance by a declaration, in any court of record in the State, within three months from this date, that he or she does not wish to be considered a citizen of this State."

"The ordinance of secession referred to in the above quotation was passed on the 19th day of January, 1861.

"If the Messrs. Kiely were resident in this State on the 19th day of January, 1861, and did not file their declaration in a court of record in this State within three months from the 16th day of March, 1861, that they did not wish to become citizens of this State, they accepted the privileges and obligations of citizenship offered them by the State, and ceased to be British subjects, and are consequently not entitled to the leave to quit the State for which you ask under my letter of the 26th ultimo. If, however, they became residents of this State at any time since the 13th day of January, 1861, or if they were then residents, and filed their declaration, as required by the ordinance, within three months after the 16th day of March, 1861, they will be allowed the thirty days

to arrange their affairs, as you request, and permitted to depart from the State at the expiration of that term.

"With high consideration, I am, &c.,

"JOSEPH E. BROWN.

"Mr. A. FULLARTON, *Acting Consul of Great Britain.*"

Bravo, governor! We hope there is not a single governor of a State in the confederacy capable of acting with less spirit and patriotism than Governor Brown.

But what on earth are we to do with Mr. Benjamin and his "consuls?" How long are we to suffer him to "approve and recognize" persons who do not approve or recognize us, who publicly insult the sovereignty of our States, who tell us we are waging "civil war" against our government at Washington, and who officially advise our State soldiers to throw down their arms? Something must be done; and no one will be surprised if the governor of Georgia now finds it to be his duty to draft Mr. Fullarton. The gentleman or his government can ask redress at the hands of Mr. Lincoln.

No. 7.

Lord Lyons to Earl Russell.—(Received November 6.)

WASHINGTON, October 23, 1863.

MY LORD: With reference to my despatch of the 16th instant, I have the honor to transmit to your lordship an extract from the National Intelligencer newspaper of the day before yesterday, containing a part of a correspondence which has been published in the southern newspapers, and from which it appears that the so-called confederate government has expelled the British consular officers from the territory subject to it.

I have no other information on the subject.

I have, &c.,

LYONS.

[Enclosure in No. 7.]

Extract from the National Intelligencer of October 21, 1863.

EXPULSION OF ALL THE BRITISH CONSULS.—We published a few days ago a digest of a correspondence that had passed between Governor Brown, of Georgia, and Mr. Fullarton, British consul at Savannah, in reference to the rights of British subjects who had been impressed into the confederate army. The position taken by Mr. Fullarton on that occasion has brought to a crisis the anomalous question of the position of British consuls in the confederacy; and a correspondence has been published by the rebel state department, in the course of which Mr. Benjamin takes occasion, on behalf of the confederacy, to dispense with the existence of British consular agents.

The first document is a very long despatch addressed by Mr. Benjamin to Mr. Slidell, in Paris. It is dated from the department of state at Richmond on the 18th instant, and, as the point of the whole matter is in the first paragraph, we here quote it:

"The conduct of the British consular agents in the confederacy has compelled the president to take the decisive step of expelling them from our country, and it is deemed proper to put you in possession of the causes which have produced

this result, that you may have it in your power to correct any misrepresentations on the subject. To this end it is necessary to review the whole course of the British government and that of the confederacy in relation to these officials."

Lest the Emperor of the French may misunderstand this action, Mr. Benjamin concludes his despatch with the following paragraph :

"The exercise of the *droit de renvoi* is too harsh, however, to be resorted to without justifiable cause, and it is proper that you should have it in your power to explain the grounds on which the president has been compelled to enforce it. Lest also the government of his Imperial Majesty should be misled into the error of supposing that the rights of French citizens are in any manner involved in the action of the president, which has been rendered necessary by the reprehensible conduct of the British consular agents, you are requested to take an early occasion for giving such explanations to M. Drouyn de l'Huys as will obviate all risk of misapprehension."

We give entire the despatch in which Mr. Benjamin announces to Mr. Fullarton the fact of his dismissal :

"DEPARTMENT OF STATE, *Richmond, October 3, 1863.*

"SIR: Your letters of the 1st and 3d instant have been received. You inform this government that, 'under your instructions, you have felt it to be your duty to advise British subjects that while they ought to acquiesce in the service required so long as it is restricted to the maintenance of internal peace and order, whenever they shall be brought into actual conflict with the forces of the United States, whether under the State or confederate government, the service so required is such as they cannot be expected to perform.'

"Your correspondence with the governor of Georgia leaves no doubt of the meaning intended to be conveyed by this language. In that correspondence you state that, 'under instructions, you have felt yourself compelled to advise those drafted to acquiesce until called from their homes, or to meet the United States forces in actual conflict; but in that event to throw down their arms, and refuse to render a service directly in the teeth of her Majesty's proclamation, which would incur the severe penalties denounced in the neutrality act.'

"In a communication from the acting British consul in Charleston to the military authorities, he also has informed them that 'he has advised the British subjects generally to acquiesce in the State military organizations; but at the same time he informed them that, in the event the militia should be brought into conflict with the forces of the United States, either before or after being turned over to the confederate government, the services required of them would be such as British subjects could not be expected to perform.'

"It thus appears that the consular agents of the British government have been instructed not to confine themselves to an appeal for redress, either to courts of justice or to this government, whenever they may conceive that grounds exist for complaint against the confederate authorities in their treatment of British subjects, (an appeal which has in no case been made without receiving just consideration,) but that they assume the power of determining for themselves whether enlisted soldiers of the confederacy are properly bound to its service; that they even arrogate the right to interfere directly with the execution of the confederate laws, and to advise soldiers of the confederate armies to throw down their arms in the face of the enemy.

"This assumption of jurisdiction by foreign officials within the territory of the confederacy, and this encroachment on its sovereignty, cannot be tolerated for a moment; and the president has had no hesitation in directing that all consuls and consular agents of the British government be notified that they can no longer be permitted to exercise their functions, or even reside, within the limits of the confederacy.

"I am directed, therefore, by the president to communicate to you this order, that you promptly depart from the confederacy, and that in the mean time you cease to exercise any consular functions within its limits.

"I am, &c.,

"J. P. BENJAMIN, *Secretary of State.*

"A. FULLARTON, Esq., *Savannah, Georgia.*"

The Richmond Enquirer has the following among other comments on the above correspondence:

"It ought to have been known here from the first, but was not, that England could be no friend to the confederacy or its cause, although sufficiently an enemy to the United States to desire the final disruption of the Union. We have been long in finding out the truth, and, before we would admit it, have endured some humiliations and insolent airs on the part of that power which surprised us very much, but ought not to have done so. At last the thing has become too clear.

"Be it so; we are content that the right thing is done at last in this most provoking matter. We pay our compliments also to the secretary for the clearness and precision with which he has set forth what he thought it material to place on record; and though some of his views about continuing and revoking exequaturs, and the like, are liable to exception, there is no occasion to controvert them any further on the present occasion. Practically, the right position with regard to the British government is now reached. We may now expect, ere long, to see a British minister at Richmond, and British consuls asking exequaturs from Mr. Benjamin; for England never neglects her subjects, nor leaves them without the shadow of her wing and the guardianship of her flag. The sooner the better. We do not want to hurt either her or her subjects."

No. 8.

Acting Consul Walker to Earl Russell.—(Received November 27.)

CHARLESTON, October 15, 1863.

MY LORD: I have the honor to transmit to your lordship herewith a copy of a despatch I have this day received from Mr. Benjamin, the secretary of the so-called Confederate States, conveying to me the orders of the president of the same promptly to withdraw from the confederacy, and in the mean time to cease the exercise of consular functions within its limits. I also transmit a copy of a despatch enclosed to me by Mr. Benjamin, to which I am referred for the reasons which have induced the president to adopt such a course.

Upon an examination of this despatch, it seems that Mr. Benjamin has concluded from certain statements made by Mr. Fullarton, and from a statement made by myself, that the consular agents of her Majesty have been instructed not to confine themselves to an appeal for redress either to courts of justice or to the confederate government whenever they may conceive that grounds exist for complaint against the confederate authorities in their treatment of British subjects, but that they assume the power of determining for themselves whether enlisted soldiers of the confederacy are properly bound to its service; that they even arrogate the right to interfere directly with the execution of the confederate laws, and to advise soldiers of the confederate armies to throw down their arms in the face of the enemy. As these conclusions and surmises are entirely inapplicable to this consulate, I have taken upon myself to reply to Mr. Benjamin's despatch, and to controvert his positions *in toto*, in the most emphatic manner possible; and as he has thought proper to give publicity to the whole affair by causing it to

be published in the Richmond Sentinel, I have submitted to him that justice to her Majesty's government, and to myself, requires a like publication of my reply to him.

I have the honor to transmit herewith a copy of that reply.

I have, &c.,

H. PINCKNEY WALKER.

[Enclosure 1 in No. 8.]

Mr. Benjamin to Acting Consul Walker.

DEPARTMENT OF STATE,

Richmond, October 8, 1863.

SIR: For the reasons expressed in the enclosed copy of a letter from this department to the acting British consul at Savannah, I have to convey to you the orders of the president that you promptly withdraw from the confederacy, and that in the mean time you cease to exercise any consular functions within its limits.

I am, &c.,

J. P. BENJAMIN,
Secretary of State.

[Enclosure 2 in No. 8.]

Mr. Benjamin to Acting Consul Fullerton.

DEPARTMENT OF STATE,

Richmond, October 8, 1863.

SIR: Your letters of the 1st and 3d instant have been received. You inform this government that "under your instructions you have felt it to be your duty to advise British subjects that, whilst they ought to acquiesce in the service required so long as it is restricted to the maintenance of internal peace and order, whenever they shall be brought into actual conflict with the forces of the United States, whether under the State or confederate governments, the service so required is such as they cannot be expected to perform."

Your correspondence with the governor of Georgia leaves no doubt of the meaning intended to be conveyed by this language.

In that correspondence you state that "under instructions you have felt yourself compelled to advise those drafted to acquiesce until called from their homes, or to meet the United States forces in actual conflict, but in that event to throw down their arms, and refuse to enter a service directly in the teeth of her Majesty's proclamation, and which would incur the severe penalties denounced in the neutrality act."

In a communication from the acting British consul in Charleston to the military authorities, he also informed them that "he has advised the British subjects generally to acquiesce in the State militia organizations, but at the same time he informed them that in the event the militia should be brought into conflict with the forces of the United States, either before or after being turned over to the confederate government, the services required of them would be such as British subjects could not be expected to perform."

It thus appears that the consular agents of the British government have been instructed not to confine themselves to an appeal for redress either to courts of justice or to this government whenever they may conceive that grounds exist for complaint against the confederate authorities in their treatment of British subjects,

(an appeal which has in no case been made without receiving just consideration,) but that they assume the power of determining for themselves whether enlisted soldiers of the confederacy are properly bound to its service; that they even arrogate the right to interfere directly with the execution of confederate laws, and to advise soldiers of the confederate armies to throw down their arms in the face of the enemy.

This assumption of jurisdiction by foreign officials within the territory of the confederacy, and this encroachment on its sovereignty, cannot be tolerated for a moment; and the president has had no hesitation in directing that all consuls and consular agents of the British government be notified that they can no longer be permitted to exercise their functions, or even to reside, within the limits of the confederacy.

I am directed, therefore, by the president to communicate to you this order, that you promptly depart from the confederacy, and that in the mean time you cease to exercise any consular functions within its limits.

I am, &c.,

J. P. BENJAMIN,
Secretary of State.

[Enclosure 3 in No. 8.]

Acting Consul Walker to Mr. Benjamin.

CHARLESTON, October 15, 1863.

SIR: I have the honor to acknowledge the receipt on this day of your despatch to me of the 8th instant, conveying to me the orders of the president that I promptly withdraw from the confederacy, and in the mean time cease to exercise any consular functions within its limits.

Your despatch encloses to me another addressed by you to her Britannic Majesty's acting consul at Savannah, to which I am referred for the reasons which have induced the orders for my withdrawal which you have conveyed to me.

I have accordingly examined that despatch, and I have the honor to represent that justice to myself, and my duty to her Majesty's government, require that I should, without any hesitation, point out to you how very serious are the mistakes you have fallen into.

However correct your premises may be, you are exceedingly unfortunate in the conclusions you have arrived at. You conclude that "the consular agents of the British government have been instructed not to confine themselves to an appeal for redress, either to the courts of justice or to your government whenever they may conceive that grounds for complaint exist against the confederate authorities in their treatment of British subjects." The fact is not so, and I am sorry to be obliged to say you are entirely mistaken.

You next conclude and assert that her Majesty's consular agents "assume the power of determining for themselves whether enlisted soldiers of the confederacy are properly bound to its service."

To this assertion, so far as it refers to this consulate, I claim the right to give the most unqualified denial, and I challenge the proof of any action that has been taken, or any advice or countenance that has at any time been given by me to any enlisted man; and with like emphasis do I utterly deny that I have ever arrogated the right to interfere directly or indirectly with the execution of confederate laws, or extended any advice whatever to any of the soldiers of its armies upon any topic whatsoever.

Therefore, in further denial of your assertions, unfounded so far as they are applied to me, it becomes my turn to draw some conclusions; and they are that I have not, as you allege, assumed any undue jurisdiction within the territory

of the confederacy nor in any way encroached upon its sovereignty. In short, the only assertion made in your despatch in which I can concur is that in which you say no appeal has been made to you without receiving just consideration. I have pleasure in admitting the truth of this statement, and on proper occasion it has given me pleasure to announce to her Majesty's government the satisfactory manner in which my appeals have been received.

But I have now to complain that you have done to me both personally and officially, and also to her Majesty's government, very great injustice by publishing throughout the southern States, as applicable to myself and to this consulate, conclusions which are utterly without foundation.

And I submit, therefore, to your just consideration that the injustice complained of can only be removed by your giving to this despatch the same publicity that you have been pleased to give to the charges you have preferred.

I have the honor to request that such orders may be given as will enable me to hold communication with any of her Majesty's ships that may visit the coast of this consular district.

I have, &c.,

H. PINCKNEY WALKER.

No. 9.

Acting Consul Walker to Earl Russell.—(Received November 27.)

CHARLESTON, October 9, 1863.

MY LORD: I have the honor to enclose to your lordship a copy of the official publication of the state department of the so-called Confederate States in reference to the recent orders for the removal of her Majesty's consuls from the confederacy.

It commences with a despatch from Mr. Benjamin to Mr. Slidell, which may not otherwise fall under your lordship's notice. In this, among other things, he insists that her Majesty's consuls at this port and Savannah have interfered with confederate enlisted soldiers, and with the execution of the confederate laws, and declares that the despatch is sent to Mr. Slidell to enable him to give such explanation of the confederate act in expelling her Majesty's consuls as will obviate the belief of its having arisen from a different cause.

In connexion with this subject I pray your lordship to permit me to offer a few remarks.

In the despatch referred to Mr. Benjamin refers to the act of the confederate congress, passed in April, 1862, directing "a draft for the army" of the Confederate States.

I beg to call your lordship's attention to these facts: that the law referred to is entitled "An act to further provide for the public defence;" that it is universally known as "the Conscription Act," and those who enter the army under its provisions as "conscripts," and those who receive and instruct them as "commandants of conscripts," and those who gather them as "enrolling officers." The word "draft" is not to be found in the act, nor is it ever understood as applicable to those who enter the service under it. For your lordship's further information on this point I transmit herewith a copy of the act.

Upon the subsequent call of the president of the so-called Confederate States upon the governors of the several States for additional troops to be employed in confederate service within their limits, they for the most part undertook to reorganize the militia of the States over which they presided; they also called for volunteers, and announced that drafts would take place from the newly organized militia to make up the number asked of them, should volunteering not supply it.

The advice which I have given, and to which Mr. Benjamin takes exception, was given on the eve of this new militia organization, and the word "drafted" as used by Mr. Fullarton has reference to the performance of that operation by the State authorities, and cannot fairly be tortured into a connexion with "enlisted men" nor "confederate laws." I will state moreover that those who have applied to me for counsel and direction I have regarded as involuntary inhabitants; the continuance of the blockade and the existence of military lines having forbade their evacuation of the country.

I trust your lordship will forgive me for this digression, which I venture to make in order to expose the special pleading of Mr. Benjamin, whereby, as it seems to me, he seeks unjustly to cast odium on her Majesty's government and upon her consular officers.

I have, &c.,

H. PINCKNEY WALKER.

[Enclosure 1 in No. 9.]

OFFICIAL CORRESPONDENCE OF THE STATE DEPARTMENT RELATIVE TO THE
DISMISSAL OF THE BRITISH CONSULS.

Mr. Benjamin to Mr. Slidell.

DEPARTMENT OF STATE,
Richmond, October 8, 1863.

SIR: The conduct of the British consular agents in the confederacy has compelled the president to take the decisive step of expelling them from our country; and it is deemed proper to put you in possession of the causes which have produced this result, that you may have it in your power to correct any misrepresentations on the subject. To this end it is necessary to review the whole course of the British government and that of the confederacy in relation to these officials.

When the confederacy was first formed, there were in our ports a number of British consuls and consular agents, who had been recognized as such, not only by the government of the United States, which was then the authorized agent of the several States for that purpose, but by the State authorities themselves. Under the law of nations, those officials are not entitled to exercise political or diplomatic functions, nor are they ever accredited to the sovereigns within whose dominions they reside. Their only warrant of authority is the commission of their own government; but usage requires that those who have the full grade of consul should not exercise their functions within the territory of any sovereign before receiving his permission in the form of an exequatur; while consular agents of inferior grade simply notify the local authorities of their intention to act in that capacity. It has not been customary, upon any change of government, to interfere with these commercial officials already established in the discharge of their duties, and it is their recognized obligation to treat all governments which may be established *de facto* over the ports where they reside as governments *de jure*. The British consular officials gave no cause of complaint on this score, and the president interposed no objection to the continued exercise of their functions. On other grounds, however, various causes of complaint subsequently arose, and in the case of Consul Moore it was found necessary to revoke his exequatur for his disregard of the legitimate request of this department that he should abstain from further action as consul until he had submitted his commission for inspection, and because of his offensive remarks touching the confederate authorities in relation to two enlisted soldiers, as fully explained in a published despatch of this government. Attention was

also called in that despatch (which was communicated to the British cabinet) to the objectionable conduct of British functionaries in the enemy's country, who assumed authority within the limits of the confederacy, thereby implying that these States were still members of the Union to which those functionaries were accredited, and ignoring the existence of this government within the territory over which it was exercising unquestioned sway. Notwithstanding the grave character of this complaint, the president confined himself to reprehending this conduct, and to informing the British government that he had forbidden, for the future, any direct communication between British consuls here and British officials in the United States. And here it may not be improper to observe, that although this despatch was published at the time of its date, and was communicated to the foreign office in London, her Majesty's ministers made the strange mistake of asserting in the House of Commons that Mr. Moore's dismissal was connected in some way with alleged cruelties committed on one Belshaw, of whose existence the department was ignorant till the publication of the debate, and concerning whom no representation exists on its files.

Soon after that despatch was forwarded, the president was apprised by the Governor of Alabama that her Majesty's government had visited with severe displeasure and had removed from office the British consular agent at Mobile, because he had received and forwarded from Mobile, on an English man-of-war, money due by the State of Alabama to British subjects for interest on the public debt of the State; and that the British minister at Washington, after failing in active efforts to prevent the remittance of this money, had assumed the power of appointing a consular agent within the confederacy to replace the officer at Mobile who had incurred censure and punishment for the discharge of a plain duty to British subjects which happened to be distasteful to the United States. A copy of the despatch on this subject communicated to the British government is enclosed, and you will perceive that the action of the president was marked by extreme forbearance, and that he confined himself to refusing permission that Mr. Cridland should act under Lord Lyons's instructions, and to expressing the confident hope that her Majesty's government would in the future choose some other mode of transmitting its orders and exercising its authority over its agents within the confederacy, than by delegating to functionaries who reside among our enemies the power to give orders or instructions to those who reside among us.

In his answer to this despatch (of which a copy is also enclosed) Earl Russell, while acknowledging the justice of our remonstrance against the assumption of authority by Lord Lyons, defends the action of the British government in the matter of the Mobile consulate by maintaining that the transmission of the specie by Consul Magee, under the circumstances above explained, "had the character, in the eyes of her Majesty's government, of aiding one of the belligerents against the other." This statement clearly assumes that the transmission of specie from one of these States to Great Britain in payment of a public debt to British subjects is an act of hostility against the United States, which British officials cannot promote with due regard to neutral obligations, because it "aids one of the belligerents against the other." No reason is given for this conclusion, which appears to us to be at variance with all received notions of international law. The States of the confederacy have, under the most adverse circumstances, made great efforts and sacrifices to effect punctual payment of their debts to neutrals, and these efforts do not seem to us to be properly characterized as being belligerent acts against our enemies. We can but regret that her Majesty's government have determined so to regard them, and to discourage the discharge of a duty in which British subjects are so deeply interested.

Within the last few days the president has been informed by communications addressed to the State and confederate authorities by two out of the three British consular agents remaining here that they had received instructions from their

government to pursue a course of conduct in regard to persons of British origin now resident within the confederacy which it has been impossible to tolerate. It seems scarcely probable that the instructions of Earl Russell have been properly understood by his agents, but we have no means of communicating with the British government for the correction of misunderstandings. You are aware that Great Britain has no diplomatic agent accredited to us, and that Earl Russell having declined a personal interview with Mr. Mason, the latter, after some time spent in an unsatisfactory interchange of written communications, has been relieved of a mission which had been rendered painful to himself, and was productive of no benefit to his country. The president was, therefore, compelled to take the remedy into his own hands.

A brief statement will suffice for your full comprehension of the matter. In April, 1862, Congress passed a law directing a draft for the army of "all white men who are residents of the Confederate States, between the ages of eighteen and forty-five years, and not legally exempted from military service." The draft was made, as stated in the law, in view of the absolute necessity "of placing in the field a large additional force to meet the advancing columns of the enemy now invading our soil;" in other words, all residents capable of bearing arms were called on to protect their own homes from invasion, their own property from plunder, their own families from cruel outrage. You will observe that the call was not made until after a year of war, during which it had been entirely within the power of all foreigners to depart from a country threatened with invasion, if they preferred not to share the common lot of its inhabitants.

Upon the promulgation of this law objection was made by several foreign consuls to its application to the subjects of their sovereigns, and the president directed that its provisions should not be so construed as to impose forced military service on mere sojourners or temporary residents, but only on such as had become citizens of the confederacy *de jure*, or had rendered themselves liable, under the law of nations, to be considered as citizens *de facto*, by having established themselves as permanent residents within the confederacy, without the intention of returning to their native country.

To this very liberal interpretation of the law in favor of foreign residents, it was not supposed that objection could be taken; but on the 12th November, 1862, Consul Bunch, at Charleston, wrote to the department as follows:

"I have now received the instructions of Earl Russell to signify to you the views of her Majesty's government on this subject.

"I am desired to lose no time in remonstrating strongly against the forcible enlistment of British subjects, and to say that such subjects, domiciled only by residence in the so-called Confederate States, cannot be forcibly enlisted in the military service of those States by virtue of an *ex post facto* law, when no municipal law existed at the time of their domicile rendering them liable to such service.

"It may be competent for a State in which a domiciled foreigner may reside to pass such an *ex post facto* law, if at the same time an option is offered to foreigners affected by it to quit, after a reasonable period, the territory, if they object to serve in the armies of the State; but without this option such a law would violate the principles of international law, and even with such an option the comity heretofore observed between independent States would not be very scrupulously observed.

"The plainest notions of reason and justice forbid that a foreigner admitted to reside for peaceful and commercial purposes in a State forming a part of the federal Union should be suddenly and without warning compelled by the State to take an active part in hostilities against other States which, when he became domiciled, were members of one and the same confederacy; which States, moreover, have threatened to treat as rebels, and not as prisoners of war, all who may fall into their hands.

"To these considerations must be added the fact that the persons who have been the victims of this forced enlistment are forbidden, under severe penalties, by the Queen's proclamation, to take part in the civil war now raging in America, and that thus they are made not only to enter a military service contrary to their own wishes and in violation of the tacit compact under which they took up their original domicile, but also to disobey the order of their legitimate sovereign.

"I am directed by Earl Russell to urge these several considerations upon you, and to add that her Majesty's government confidently hope and expect that no further occasion for remonstrance will arise on this point."

No reply was deemed necessary to this despatch, (nor to a similar one from Consul Moore, dated on the 14th November,) notwithstanding the very questionable assumptions, both of law and fact, contained in it, because there seemed to be no substantial point at issue between the two governments, and discussion could therefore serve no useful purpose. Earl Russell was not understood to insist on anything more than that British subjects resident within the confederacy should be allowed a reasonable time to exercise the option of departing from the country if unwilling to be enrolled in its service; and, in point of fact, this option had never been refused them, and many had availed themselves of it. Nor was it believed that her Majesty's government expected a very favorable response to their appeal to this government for the exercise of the comity between "independent" States supposed to be involved in this subject, whilst Great Britain was persistently refusing to recognize the independence which alone could justify the appeal.

Since the date of these two letters numerous requests have been made by British consular officials for the interposition of this government in behalf of persons alleged to be British subjects wrongfully subjected to draft. Relief has always been afforded when warranted by the facts, but it soon became known that these gentlemen regarded their own certificates as conclusive evidence that the persons named in them were exempt from military service, and that these certificates were freely issued on the simple affidavit of the interested parties. Thus Consul Moore was deceived into claiming exemption for two men who were proven to be citizens of the confederacy, and to have been land-owners and voters for a series of years prior to the war.

Much inconvenience was occasioned before these abuses could be corrected, but they afterwards assumed a shape which forbade further tolerance. The correspondence of the acting British consuls at Savannah and Charleston, already referred to, asserts the existence of instructions from their government, under which, instead of advising British subjects to resort to the courts of justice, always open for the redress of grievances, or to apply to this government for protection against any harsh or unjust treatment by its subordinates, they deem it a duty to counsel our enlisted soldiers to judge for themselves of their right to exemption, to refuse obedience to confederate laws and authority, and even exhort them to open mutiny in face of the enemy.

This unwarrantable assumption by foreign officials of jurisdiction within our territory, this offensive encroachment on the sovereignty of the Confederate States, has been repressed by the president's order for the immediate departure of all British consular agents from our country, as you will perceive by a perusal of the enclosed copy of the notice addressed to one of them, Acting Consul Fullarton.

But a few months have elapsed since the utmost indignation was expressed by the British government against the United States minister at London for issuing a safe-conduct to be used on the high seas by a merchant vessel; and the ground of this denunciation was his exercise of direct authority over subject-matter within the exclusive territorial jurisdiction of the Queen. It is difficult, therefore, to conceive on what basis her Majesty's government have deemed

themselves justified in the much graver encroachment on the sovereignty of these States, which has been attempted under instructions alleged to have emanated from them.

It is not my purpose here to discuss the nature and extent of the claims of the confederacy on the allegiance of persons of foreign origin residing permanently within its limits, (easy as would be the task of demonstrating the obligation of such residents, under the law of nations, to aid in the defence of their own homes and property against invasion,) because, as already observed, the liberal construction of the law in their favor which has been sanctioned by the president, and the indulgence of the government in permitting them for many months to exercise the option of avoiding service by departing from the country, deprive the discussion of any practical interest. I have been induced to place the whole subject fully in your possession, by reason of a statement made by Consul Fullarton to the governor of Georgia, that in the event of the failure of his remonstrances to produce the exemption of all British subjects from service, he is instructed to state that "the governments in Europe interested in this question will unite in making such representations as will secure to aliens this desired exemption."

The menace here implied would require no answer if it were not made professedly under instructions. It is scarcely necessary to say to you that the action of the president in repelling with decision any attempt by foreign officials to arrogate sovereign rights within our limits, or to interfere of their own authority with the execution of our laws, would not be affected in the slightest degree by representations from any source, however exalted. This is the only point on which the president has had occasion to act, and on this point there is no room for discussion.

The exercise of the *droit de renvoi* is too harsh, however, to be resorted to without justifiable cause, and it is proper that you should have it in your power to explain the grounds on which the president has been compelled to enforce it. Lest also the government of his Imperial Majesty should be misled into the error of supposing that the rights of French citizens are in any manner involved in the action of the president, which has been rendered necessary by the reprehensible conduct of the British consular agents, you are requested to take an early occasion for giving such explanation to M. Drouyn de l'Huys as will obviate all risk of misapprehension.

I am, &c.,

J. P. BENJAMIN.

[For Mr. Benjamin's letter to Mr. Fullarton, of October 8, 1863, see enclosure 2 in No. 8.]

Mr. Benjamin to Mr. Mason.

DEPARTMENT OF STATE,
Richmond, June 11, 1863.

SIR: Since my No. 24, of 6th instant, further information has reached the department, illustrating most forcibly the necessity for the action taken by the president on the subject of her Britannic Majesty's consuls resident within the confederacy, as explained in that despatch.

On the 18th May Mr. Cridland, who had occasionally acted as consul in Richmond during temporary absence of Consul Moore, sought an interview at the department, and in being admitted, called my attention to an article in the Richmond Whig of that date, which announced that Mr. Cridland was about to

depart for Mobile with the commission of consul, and that he was accredited to Mr. Lincoln, not to this government. Mr. Cridland assured me that the statement was erroneous; that he was going to Mobile as a private individual, unofficially, to look after certain interests of the British government that had been left unprotected by the withdrawal of Consul Magee. He further stated that as he was going there unofficially, he had not conceived that there was any impropriety in doing so, without communicating his intention to the department, and hoped that such was my own view of the matter. I informed him that all neutral residents were at liberty to travel within the confederacy, and to transact their business without other restrictions than such as the military authorities found it necessary to impose for the public safety, and that this department saw no reason to interpose any objection to his going to Mobile to transact business unofficially. He then said that he had called at the office of the Whig to make a similar explanation to the editor of that paper, with a view to the correction of the erroneous impression created by its article, and accordingly on the next day an article appeared in that journal announcing that it had received the assurance from Mr. Cridland that he was going to Mobile "to look after British interests in that quarter in an unofficial way," and that he was "without commission from the Queen or *exequatur* from Washington."

I was, therefore, quite surprised at receiving from the secretary of the navy official communication of a telegram received by him from Admiral Buchanan, informing the secretary that Mr. Cridland had been officially introduced to him by the French consul as acting English consul at Mobile, and had shown the admiral "an official document, signed by Lord Lyons, appointing him acting English consul at Mobile." I append copies of this telegram, and of the two articles above referred to, extracted from the Richmond Whig.

These, however, are not the only exceptionable features which mark this affair. Other circumstances, to which your attention is invited, have been brought to the notice of the department by official communications from the governor of Alabama.

On the 11th November last the Bank of Mobile, as agent for the State of Alabama, addressed a communication to Consul Magee, at Mobile, informing him that that State would owe, during the ensuing year, to British subjects, interest coupons on the State bonds to the amount of some £40,000 sterling; that this interest was payable in London at the Union Bank, and at the counting-house of the Messrs. Rothschild, and requesting to know whether the bank would be allowed to place in the hands of the consul in coin the sum necessary for transmission to England, at the expense of the State, for the purpose mentioned.

On the 14th November Consul Magee replied that he had sent to her Britannic Majesty's consul at New Orleans to ask if her Majesty's steamship *Rinaldo* could not be sent to Mobile to receive the specie and take it to Havana, to be forwarded thence by the consul general of Great Britain to London.

The specie was not conveyed by the *Rinaldo*, but by her Majesty's ship *Vesuvius*, and was accompanied by a certificate of the president of the bank, stating that the remittance of the "thirty-one kegs of specie, containing each \$5,000, together \$155,000, * * * * is for the purpose of paying dues to British subjects from the State of Alabama, and is the property and belongs to the subjects of her Britannic Majesty.

The shipment was accompanied by a letter addressed by the bank, as agent of the State of Alabama, to W. W. Scrimgeour, esq., manager of the Union Bank of London, directing its appropriation to the payment of the interest due to British and other foreign holders of the State bonds, with a statement of the dates at which the several instalments of the interest would become due, and of the places in London where they were to be paid.

So little doubt seems to have been entertained of the propriety of this trans-

action by all that were engaged in it, that the commander of the *Vesuvius* informed the commander of the United States blockading squadron that the British consul had money to send by him, and no objection nor protest was made. Among the papers annexed you will find the account given by Commodore Hitchcock himself of his conversation with the commander of the *Vesuvius*, written after the dismissal of Consul Magee, and therefore at a period when the commodore could certainly have no motive for giving a coloring to his narrative adverse to what was then known to be the view of his government on the subject.

Under these circumstances, the *Vesuvius* received and conveyed the specie which has since been received in England, and, as stated in the public journals, paid in whole or in part to British subjects, thus establishing the *bona fides* of the conduct of all the parties to the transaction.

It now appears that no sooner was the intention of making this remittance communicated to her Britannic Majesty's minister at Washington than he took active measures to prevent it, by sending despatches to Mobile forbidding the shipment. They, however, failed to arrive before the departure of the *Vesuvius* with the specie, whereupon Consul Magee was dismissed from office for receiving and forwarding it; and the vacancy thus created in the office of British consul at Mobile was filled by Lord Lyons by the issue of a commission to Mr. Cridland, and his departure for Mobile under the circumstances already explained.

These facts are of a character so grave as to have attracted the earnest attention of the president, and it is my duty to apprise you of the conclusions at which he has arrived, in order that you may lose no time in laying them before her Majesty's government, in the hope that a renewed examination of the subject, and a knowledge of the serious complications which the present anomalous relations between the two governments may involve, will induce the British cabinet to review its whole policy connected with those relations, and to place them on the sole footing consistent with accomplished facts, that are too notorious and too firmly established to be much longer ignored.

By the principles of the modern public code debts due by a state are not subject to the operation of the laws of war, and are considered so sacred as to be beyond the reach of confiscation. An attempt at such confiscation would be reprobated by mankind. The United States alone in modern times have courted such reprobation, and just detestation has been universally expressed of their confiscation laws passed during the pending war. The government of Great Britain, on the contrary, has at all times manifested its abhorrence of such breaches of public faith, and in the Crimean war gave to the world a memorable example of its own high regard for public honor by paying over to its enemy money which it well knew would be immediately employed in waging hostilities against itself. The States of this confederacy are emulous of examples of honor, and they accordingly refrained on the breaking out of hostilities from even the temporary sequestration of the dividend of their public debt due to their enemies. It was not until they had received notice of the confiscation law passed by the United States on the 6th August, 1861, that they consented to the temporary sequestration of the property of their enemies, and even then the sequestration was declared to be for the sole purpose of securing a fund to indemnify the sufferers under the confiscation law of the United States.

The following clause of our law, exempting public debts from its operation, is extracted as a proof of the sacred regard for public faith manifested by these States under strong temptation to retaliate, and under all the exasperation of the savage warfare then actually waged against them: "*Provided further*, That the provisions of this act shall not extend to the stocks or public securities of the confederate government, or any of the States of this confederacy, held or owned by any alien enemy, or to any debt, obligation, or sum due from the confederate government or any of the States to such alien enemy."—(Sequestration law of Confederate States, passed 30th August, 1861.)

Such being the obligations imposed on States in regard to the payment of public debts towards even their enemies, no deeper reproach can stain their name than the refusal to do justice to neutral creditors. The observance of public plighted faith concerns mankind at large; in it all nations have common interest; and the belligerent who perverts the weapons of legitimate warfare into an instrumentality for forcing his enemy to dishonor his obligations and incur the reproach of being faithless to his engagements wages a piratical and not an honorable warfare, and becomes *hostis generis humani*. Public honor is held sacred by international law against the attack of the most malevolent foe, and as susceptible of loss only by the recreancy of its possessor.

What possible lawful interest could the United States have in preventing the remittance of the specie due to the creditors of the State of Alabama? Blockades are allowed by the law of nations as a means of enforcing the submission of an enemy by the destruction of his commerce, the exhaustion of his resources, and consequent forced abandonment of the struggle. The remittance of the specie in the present case, far from retarding these legitimate objects, tended, on the contrary, to promote them by the diversion of the money from application to military purposes. The United States could not have desired that the specie should remain within the confederacy save with one of two motives:—first, to dishonor the State of Alabama by giving color to the reproach that it was regardless of public faith, and on this comment has already been made; or, secondly, in the hope that by the fortunes of war the money would come within the reach of spoliation under its confiscation law. It is scarcely necessary to observe that the desire to enrich itself by plunder at the expense of neutral creditors is as little consonant with respect for public law and the rights of neutrals as the purpose forcibly to prevent the State of Alabama from redeeming its plighted faith.

Whatever may be the value to which these views may be justly entitled, it is certain that there are but two aspects in which the State of Alabama can be regarded by her Majesty's government. Alabama is either one of the States of the former Union, engaged in armed rebellion against the legitimate authority of the United States, or is an independent State and a member of this confederacy, engaged in lawful war against the United States. An examination of the effect of either of these relations upon the facts connected with the dismissal of Consul Magee and the appointment of Mr. Cridland will now be presented in vindication of the action which the president deems it his duty to take on this subject.

1. If the British government think proper to assume (although the contrary is deemed by this government to be fully established by convincing reason and victorious arms) that the State of Alabama is still one of the United States, then the government of the United States is bound towards Great Britain, as well as to all other neutral nations, to render all legitimate aid in the collection of their just claims against that State. Although by the Constitution of the United States its government may be without power to enforce the payment of a debt due to foreign subjects or powers by an unwilling State, none can doubt its duty to interpose no obstruction to the payment of such debt; and no more legitimate ground of complaint could be afforded to Great Britain against the government of the United States than an opposition made by that government to the payment of a just debt due by Alabama to the subjects of Great Britain. In this aspect of the case, therefore, the British officials of Mobile were doing a duty which ought to have been equally acceptable both to the United States and Great Britain when they facilitated the transmission of funds by that State for that purpose to England, where the debt was made payable, and merited applause rather than a manifestation of displeasure.

2. If, on the contrary, the State of Alabama be regarded (as in right and fact she really is) as an independent State engaged in war against the United States, as a foreign enemy, then the president cannot refrain from observing that the

action of her Britannic Majesty's minister at Washington savored on this occasion rather of unfriendly co-operation with an enemy than of just observance of neutral obligations; for, in this view of the case, a minister accredited to the government of our enemies has not only assumed the exercise of authority within this confederacy, without the knowledge or consent of its government, but has done so under circumstances that rather aggravate than palliate the offence of disregarding its sovereign rights. His action further conveys the implication that this confederacy is subordinate to the United States, and that his credentials, addressed to the government at Washington, justify his ignoring the existence of this government, and his regarding these States as an appendage of the country to which he is accredited. Nor will her Majesty's government fail to perceive that in no sense can it be considered consonant with the rights of this government, or with neutral obligations, that a public minister should be maintained near the cabinet of our enemies, charged both with the duty of entertaining amicable relations with them, and with the power of controlling the conduct of British officials resident with us.

Nor will the application of the foregoing remarks be at all impaired if her Majesty's government, declining to determine the true relation of the State of Alabama to the United States, choose to consider that question as still in abeyance, and to regard that State as simply a belligerent, whose ulterior *status* must await the event of the war. In this hypothesis, the objection to delegating authority over British officials residing with us to a minister charged with the duty of rendering himself acceptable to our enemies, is still graver than would exist in the case of hostile nations equally recognized as independent by a neutral power; for in the latter case the parties would have equal ability to vindicate their rights through the usual channels of official intercourse, whereas in the former the belligerent which enjoys exclusively this advantage is armed by the neutral with additional power to inflict injury on his enemy.

The president has, in the facts already recited, seen renewed reasons for adhering to his determination, mentioned in my preceding despatch, of prohibiting any direct communication between consuls or consular agents residing within the confederacy and the functionaries of their governments residing among our enemies. He further indulges the hope (which her Majesty's government cannot but regard as reasonable, and which he is, therefore, confident will be justified by its action,) that her Majesty's government will choose some other mode of transmitting its orders and exercising its authority over its agents within the confederacy, than by delegating to functionaries who reside among our enemies the power to give orders or instructions to those who reside among us.

Finally, and in order to prevent any further misunderstanding in Mr. Cridland's case, that gentleman has been informed that he cannot be permitted to exercise consular functions at Mobile, and it has been intimated to him that his choice of some other State than Alabama for his residence would be agreeable to this government. This intimation has been given in order to avoid any difficulty which might result from the doubtful position of Mr. Cridland, who is looked on here as a private individual, and who in Alabama represents himself as "acting English consul."

The president is confident that her Majesty's government will render full justice to the motives by which these measures are prompted, and will perceive in them a manifestation of the earnest desire entertained by him to prevent the possibility of any unfortunate complications having a tendency to impair the amity which it is equally the interest and the desire of this government to cherish with that of Great Britain.

The president wishes a copy of this despatch to be placed by you in the hands of Earl Russell.

I am, &c.,

J. P. BENJAMIN.

[For letter of Earl Russell to Mr. Mason, dated August 19, 1864, see "North America, No. 14, (1864,)" p. 31.]

[For letter of Mr. Mason to Earl Russell, dated September 4, 1863, see "North America, No. 14, (1864,)" p. 31.]

[Enclosure 2 in No. 9.]

General Orders No. 30.

WAR DEPARTMENT, ADJUTANT AND INSPECTOR GENERAL'S OFFICE,
Richmond, April 28, 1862.

I. The following acts having passed both houses of Congress, were duly approved by the president, and are now published for the information of the army :

An act to organize bands of partisan rangers.

SEC. 1. The Congress of the Confederate States of America do enact that the president be, and he is hereby, authorized to commission such officers as he may deem proper, with authority to form bands of partisan rangers, in companies battalions, or regiments, either as infantry or cavalry, the companies, battalions, or regiments to be composed each of such numbers as the president may approve.

SEC. 2. *Be it further enacted*, That such partisan rangers, after being regularly received into the service, shall be entitled to the same pay, rations, and quarters during their term of service, and be subject to the same regulations, as other soldiers.

SEC. 3. *Be it further enacted*, That for any arms and munitions of war captured from the enemy by any body of partisan rangers, and delivered to any quartermaster at such place or places as may be designated by a commanding general, the rangers shall be paid their full value, in such manner as the secretary of war may prescribe.

Approved April 21, 1862.

An act to further provide for the public defence.

In view of the exigencies of the country and the absolute necessity of keeping in the service our gallant army, and of placing in the field a large additional force to meet the advancing columns of the enemy now invading our soil: Therefore,

SEC. 1. The Congress of the Confederate States of America do enact, that the president be, and he is hereby, authorized to call out and place in the military service of the Confederate States, for three years, unless the war shall have been sooner ended, all white men who are residents of the Confederate States between the ages of 18 and 35 years at the time the call or calls may be made, who are legally exempted from military service. All of the persons aforesaid who are now in the armies of the confederacy, and whose term of service will expire before the end of the war, shall be continued in the service for three years from the date of their original enlistment, unless the war shall have been sooner ended: Provided, however, that all such companies, squadrons, battalions, and regiments, whose term of original enlistment was for twelve months, shall have the right, within forty days, on a day to be fixed by the commander of the brigade, to re-organize said companies, battalions, and regiments, by electing all their officers which they had a right heretofore to elect, who shall be commissioned by the president: Provided further, that furloughs not exceeding sixty days, with transportation home and back, shall be granted to all those retained in the service

by the provisions of this act, beyond the period of their original enlistment, and who have not heretofore received furloughs under the provisions of an act entitled "An act providing for the granting of bounty and furloughs to privates and non-commissioned officers in the provisional army," approved 11th December, 1861; said furloughs to be granted at such times and in such numbers as the secretary of war may deem most compatible with the public interest: And provided further, that, in lieu of a furlough, the commutation value in money of the transportation herein above granted shall be paid to each private, musician, or non-commissioned officer who may elect to receive it, at such time as the furlough would otherwise be granted: Provided further, that all persons under the age of 18 years, or over the age of 35 years, who are now enrolled in the military service of the Confederate States, in the regiments, squadrons, battalions, and companies hereafter to be reorganized, shall be required to remain in their respective companies, squadrons, battalions, and regiments for ninety days, unless their places can be sooner supplied by other recruits not now in the service, who are between the ages of 18 and 35 years; and all laws and parts of laws providing for the re-enlistment of volunteers and the organization thereof into companies, squadrons, battalions, or regiments, shall be, and the same are hereby, repealed.

SEC. 2. *Be it further enacted*, That such companies, squadrons, battalions or regiments organized, or in process of organization, by authority from the secretary of war, as may be, within thirty days from the passage of this act, so far completed as to have the whole number of men requisite for organization actually enrolled, not embracing in said organizations any persons now in the service, shall be mustered into the service of the Confederate States as part of the land forces of the same: to be received in that arm of the service in which they are authorized to organize, and shall elect their company, battalion, and regimental officers.

SEC. 3. *Be it further enacted*, That for the enrolment of all persons comprehended within the provisions of this act who are not already in service in the armies of the Confederate States, it shall be lawful for the president, with the consent of the governors of the respective States, to employ State officers; and on failure to obtain such consent, he shall employ confederate officers, charged with the duty of making such enrolment in accordance with rules and regulations to be prescribed by him.

SEC. 4. *Be it further enacted*, That persons enrolled under the provisions of the preceding section shall be assigned by the secretary of war to the different companies now in service until each company is filled to its maximum number, and the persons so enrolled shall be assigned to companies from the States from which they respectively come.

SEC. 5. *Be it further enacted*, That all seamen and ordinary seamen in the land forces of the Confederate States, enrolled under the provisions of this act, may, on application to the secretary of the navy, be transferred from the land forces to the naval service.

SEC. 6. *Be it further enacted*, That in all cases where a State may not have in the army a number of regiments, battalions, squadrons or companies sufficient to absorb the number of persons subject to military service under this act, belonging to such State, then the residue or excess thereof shall be kept as a reserve, under such regulations as may be established by the secretary of war, and that at stated periods of not greater than three months details, determined by lot, shall be made from said reserve, so that each company shall, as nearly as practicable, be kept full: Provided, that the persons held in reserve may remain at home until called into service by the president: Provided, also, that during their stay at home they shall not receive pay: Provided further, that the persons comprehended in this act shall not be subject to the rules and articles of war until mustered into the actual service of the Confederate States; except that said persons when enrolled and liable to duty, if they shall wilfully refuse

to obey said call, each of them shall be held to be a deserter, and punished as such, under said articles: Provided further, that whenever, in the opinion of the president, the exigencies of the public service may require it, he shall be authorized to call into actual service the entire reserve, or so much as may be necessary, not previously assigned to different companies in service under provision of section 4 of this act. Said reserve shall be organized under such rules as the secretary of war may adopt: Provided, the company, battalion and regimental officers shall be elected by the troops composing the same: Provided, the troops raised in any one State shall not be combined in regimental, battalion, squadron, or company organization with troops raised in any other States.

SEC. 7. *Be it further enacted*, That all soldiers now serving in the army or mustered in the military service of the Confederate States, or enrolled in said service under the authorizations heretofore issued by the secretary of war, and who are continued in the service by virtue of this act, who have not received the bounty of fifty dollars allowed by existing laws, shall be entitled to receive said bounty.

SEC. 8. *Be it further enacted*, That each man who may hereafter be mustered into the service, and who shall arm himself with a musket, shot-gun, rifle, or carbine, accepted as an efficient weapon, shall be paid the value thereof, to be ascertained by the mustering officer, under such regulations as may be prescribed by the secretary of war, if he is willing to sell the same; and if he is not, then he shall be entitled to receive one dollar a month for the use of said received and approved musket, rifle, shot-gun or carbine.

SEC. 9. *Be it further enacted*, That persons not liable for duty may be received as substitutes for those who are, under such regulations as may be prescribed by the secretary of war.

SEC. 10. *Be it further enacted*, That all vacancies shall be filled by the president from the company, battalion, squadron or regiment in which such vacancies shall occur, by promotion according to seniority, except in cases of disability or other incompetency: Provided, however, that the president may, when in his opinion it may be proper, fill such vacancy or vacancies by the promotion of any officer or officers, or private or privates, from such company, battalion, squadron or regiment who shall have been distinguished in the service by exhibition of valor and skill; and that whenever a vacancy shall occur in the lowest grade of the commissioned officers of a company, said vacancy shall be filled by election: Provided, that all appointments made by the president shall be by and with the advice and consent of the senate.

SEC. 11. *Be it further enacted*, That the provisions of the first section of this act relating to the election of officers, shall apply to those regiments, battalions, and squadrons which are composed of twelve-months and war companies combined upon the same organization, without regard to the manner in which the officers thereof were originally appointed.

SEC. 12. *Be it further enacted*, That each company of infantry shall consist of 125, rank and file; each company of field artillery of 150, rank and file; and each of cavalry of 80, rank and file.

SEC. 13. *Be it further enacted*, That all persons subject to enrolment, who are not now in the service under the provisions of this act, shall be permitted, previous to such enrolment, to volunteer in companies now in the service. [Approved April 16, 1862.]

II.—Enrolment and disposition of recruits.

1. An officer not below the rank of major will be detailed for each State to take charge of the enrolment, mustering in, subsistence, transportation, and disposition of the recruits raised under the above act.

2. Application will be made immediately to the governors of the several States for permission to employ State officers for said enrolment; and in case such permission be not granted, officers of the army will be selected by the department.

to perform that duty, under such regulations as may be prescribed. Where State officers are employed, the regulations of the respective States in regard to military enrolment will be observed as far as practicable.

3. The enrolled men in each State will be collected in camps of instruction by the officers in command of the recruits, the said camps to be selected with reference to health, and the facilities for obtaining subsistence and transportation. The number of these camps shall not exceed two in each State without authority from the department, and to each will be allowed a quartermaster and commissary.

4. The commandant of the camps of instruction in the several States will call upon the generals commanding the military departments in which their camps may be situated for competent drill officers to instruct recruits, and will prepare them for the field as rapidly as possible. They will cause them to be promptly vaccinated; and in ordering them to the field, will, as far as practicable, prefer those who have passed through the usual camp diseases. They will establish hospitals in connexion with their camps, and make requisition for such medical attendance and stores as may be required.

5. The commandants of regiments, battalions, squadrons and unattached companies in service on the 16th instant will send copies of their muster-rolls to the commandant of the proper camp of instruction in their respective States, with officers to take charge of such recruits as may be furnished to said corps. The said commandants will apportion the recruits among such corps in proportion to the deficiency of each, except when otherwise specially directed by the department, allotting as far as practicable to each such corps the men from the regions of country in which it has been raised. They will from time to time send off such bodies of recruits as are ready for the field, and will report on the first Monday of every month to the department the number of recruits in camp, their condition, the number sent off during the month, and the regiments and corps to which they were sent.

6. The commandants of regiments and corps will distribute the recruits among their several companies; and in such as have not the number of companies allowed by law to a regiment, the said commandants may organize the required number of new companies, after first filling up the existing companies to the minimum numbers required by law; that is to say, for each company of infantry, 64 privates; of cavalry, 60 privates; of artillery, 70 privates.

7. The recruits will be apportioned among the several arms of service according to their respective wants, consulting as far as practicable the preference of the men. Where a greater number offer for a particular arm than can be assigned to it, the distribution will be determined by lot; but recruits for the cavalry will only be taken from those who furnish their own horses.

III.—*Volunteers for existing corps.*

8. Persons liable to military service under the above act, not in service on the 16th of April, and wishing to volunteer in any particular company of the confederate service on the 16th day of April, may report themselves prior to their enrolment at a camp of instruction within their respective States, where they will be enrolled, prepared for the field, and sent to the said company, until the same shall be filled up.

9. Recruiting officers may be detailed, with the permission of the generals commanding military departments, by the commandants of regiments and corps, and sent to their respective States for the purpose of receiving for such regiments and corps, in conformity with recruiting regulations heretofore adopted, (General Orders, No. 6,) all volunteers desiring to join them. Such volunteers may be assembled at the camps of instruction in their respective States, prepared for the field, and sent to their respective regiments and corps, until the same shall be filled up; or, if ready for the field, may be ordered directly to their corps by the officers so recruiting them.

IV.—Volunteer corps heretofore authorized.

10. Persons liable to military service under this act, and not in service on the 16th day of April, may, until the 17th day of May next, volunteer in corps heretofore authorized to be raised by the secretary of war, or by the executive of any State, as part of the quota thereof, in pursuance of a call made upon such State by the president. Persons authorized to raise such corps, who may not on that day have the necessary number of men enrolled and mustered into service, according to the terms of their authority, will proceed with their men to a camp of instruction in their respective States, and will deliver their muster-rolls to the commandant thereof.

11. The commandants of such corps as are completed on or before the 17th day of May, and not otherwise ordered, will report to the commandants of the recruits of their respective States, and with their corps will be placed by him in a camp of instruction, and reported immediately to the department. Such corps will be under the command of the commandants of recruits in their respective States, and will be prepared for the field in like manner with the recruits, until removed from the camp. They will only be moved under orders from the department, from the commanding general of the army, or, in urgent cases, from the commanding general of the military department in which the camps may be situated; and in such cases report will immediately be made to the department by the officer in command of the camp.

V.—Additional corps.—Guerilla service.

12. Under the prohibition of this act against the organization of new corps, no further authority for that purpose can be given, except that specially provided for in the act of Congress entitled "An act to organize bands of partisan rangers." For this latter purpose applications must be made through the commanding generals of the military departments in which the said corps are to be employed.

VI.—Reorganization of twelve-months corps.

13. All regiments, battalions, squadrons, and companies of twelve-months volunteers will reorganize within forty days from the 16th of April, by electing all their officers which they had a right heretofore to elect, and on such days as the brigade commander may prescribe; and the said brigade commanders are hereby ordered to fix and announce the day for such reorganization as soon as practicable. No person who is to be discharged under the provisions of the act will take part in such election.

14. The form of holding and certifying the elections will be in conformity with the laws of the State from which the men, or the major part thereof, may come; and when the election of field officers is to be made by company officers, the latter will be first elected. All certificates of election will be returned to the adjutant general's office, and the officers will be commissioned by the president. They will, however, on receiving a copy of the certificate of election, immediately enter upon duty. Officers not re-elected will be relieved from duty, and the brigade commander will return their names to the department.

VII.—Corps raised for local defence.

15. Corps raised for local defence will retain their organization during the term of such enlistment, unless previously disbanded; but members of such corps may volunteer into corps for general service, as herein above provided.

VIII.—Discharges.

16. When any company now in service for twelve months shall, before the 16th day of July next, attain the maximum numbers prescribed by this act,

without including the men under eighteen and over thirty-five years of age, all such men may be discharged, and such of them as remain in service on the said day will, upon their application, be then discharged, whether such maximum be attained or not.

IX.—*Transfers.*

17. The right to change company or corps in virtue of re-enlistment ceases to exist by the repeal of all laws in regard to re-enlistment; but transfers of individuals or of companies may be made, as heretofore, within the discretion of the department, on applications approved by commanding officers.

X.—*Substitutes.*

18. When any person liable to military duty under this act, but not yet mustered into service in any company, desires to furnish a substitute, he shall report himself with the substitute to the commandant of a camp of instruction; and if the substitute be lawfully exempt from military duty, and on examination by a surgeon or assistant surgeon be pronounced sound, and in all respects fit for military service, he may be accepted and enrolled; and the person furnishing such substitute may be discharged by the commandant of the camp. But no substitute shall be entitled to transportation or other allowance at the expense of the government until so accepted and enrolled.

XI.—*Exemptions.*

19. Persons claiming exemption from military duty under this act shall be required by the enrolling officer to make oath that they are lawfully exempt, and shall be furnished by him with a certificate of such exemption.

By command of the secretary of war:

S. COOPER,
Adjutant and Inspector General.

No. 10.

Acting Consul Fullarton to Earl Russell.—(Received November 27.)

SAVANNAH, October 17, 1863.

MY LORD: I have the honor to enclose copies of my letters to Mr. Benjamin on behalf of British subjects forcibly enlisted, and the reply of that gentleman, conveying to me the president's order to depart promptly from the confederacy, and in the mean time to cease the exercise of any consular functions within its limits.

In his proclamation calling for volunteers for State defence, the governor of Georgia informed the people that the force so raised was to be used solely for the purpose of repelling raids or incursions by the federalists against their homes and property; that it was not contemplated to interrupt their ordinary avocations unless in case of such sudden emergency, and then only until the emergency was over, and that in no case would they be required to meet the regular army of the United States.

The pressing necessity for recruiting armies wasted by the ravages of war, the presence of a large federal army upon the borders of the State, and information received by myself, led me to suspect that just so soon as this force should be organized and transferred from the State to confederate control, Governor Brown's promises or pledges would not be fulfilled.

Events proved the correctness of my anticipations. From all the upper and middle portions of the State these troops were ordered to report at Atlanta, the headquarters of General Bragg, for no other purpose than that of re-enforc-

ing the confederate army under that officer; and I beg your lordship to notice that Mr. Benjamin does not attempt to controvert the statement. Accordingly, when Governor Brown refused my application, I deemed it to be my duty, under the instructions embodied in your lordship's despatch of the 11th October, 1862, and in those of Lord Lyons of the 12th November, 1861, and 14th March, 1862, to give British subjects the advice to which exception has been taken, and on which the action of President Davis is based.*

* Circular addressed by Lord Lyons to her Majesty's consuls in southern States.

WASHINGTON, November 12, 1861.

SIR: Her Majesty's secretary of state for foreign affairs has under his consideration, and has referred to the proper law advisers of the crown, a despatch, dated the 31st of July last, from her Majesty's consul at Charleston, applying for instructions with regard to the question of the liability of British subjects to perform military service in this country.

With reference to my previous instructions to you on this subject, I have to state to you that the question which has now practically arisen, under very peculiar circumstances, is one not admitting of a satisfactory solution by being left to the determination of the ordinary municipal laws and courts of the several States, as might be the case under ordinary circumstances.

Whilst her Majesty's government might be well content to have British subjects voluntarily domiciled in a foreign country, liable to all the obligations incident to such foreign domicile, including, where imposed by the municipal law of such country, service in the militia or national guard, or local police, for the maintenance of internal peace and order, or even, to a limited extent, for the defence of the territory from foreign invasion, it is not reasonable to expect that her Majesty's government should in the present state of things in this country remain entirely passive under the treatment to which it appears British subjects are actually exposed in some of the States; such, for instance, as being embodied and compelled to serve in regiments, perhaps nominally of militia, while they would be really exposed not only to the ordinary accidents and chances of war, but also to be treated as rebels and traitors in a civil war, involving many questions in which they, as aliens, cannot, simply by reason of their domicile, be supposed to take interest, as to which they may be incompetent to form an opinion, and in the determination of which they are precluded from freedom of choice and action. No state can justly frame laws to compel aliens resident within its territories to serve against their will in armies ranged against each other in a civil war, and *a fortiori*, in the absence of any such law, they cannot enforce the service.

I was, however, able to state on the 4th of July last, that in no case, either in the northern or southern States, had the discharge of a British subject, enlisted against his will, been to my knowledge refused or delayed, on proper representations being made by one of her Majesty's consuls or by myself; and her Majesty's government have therefore concluded that the desired exemption is practically conceded. Should this, however, not continue to be the case, her Majesty's government will consider whether it is not expedient to invite those foreign governments which are interested in this question to unite with them in such representations as may be likely to secure to aliens the exemptions which would be now so highly desirable.

Her Majesty's government assume that there is no hope of securing in practice, especially in South Carolina, any legal decision of a competent court favorable to the exemption as a matter of right.

I am, &c.,

LYONS.

Lord Lyons to Consul Molyneux.

WASHINGTON, March 14, 1862.

SIR: I have received your despatch of the 27th ultimo, and have learned from it with great regret that her Majesty's subjects residing in the State of Georgia are in danger of being pressed into the military service of that State, or of the so-called confederate government.

The view of her Majesty's government respecting the compulsory enlistment of British subjects in military bodies to be employed in the existing civil war were communicated to you in my despatch of the 12th November last. In conformity with those views, I have to instruct you to use your utmost endeavors to prevent *bona fide* British subjects being pressed into the military service. I authorize you to remonstrate, in case of need, not only with the authorities of the State of Georgia, but with the *de facto* government at Richmond. At the same time, I am well aware that the lives and property of British subjects might be brought into serious and immediate danger in a time of excitement by any imprudent proceedings on your part; I therefore leave it to your discretion to decide upon the particular measures to be taken with a view to obtain the exemption of our fellow-subjects from compulsory enlistment.

From the enclosed general order of General Cobb, your lordship will observe the purpose of the government to require from these troops a service different from that which, by Governor Brown's proclamation, they were led to expect.

I have, &c.,

A. FULLARTON.

[Enclosure 1 in No. 10.]

Acting Consul Fullarton to Mr. Benjamin.

SAVANNAH, October 1, 1863.

SIR: Complaint having been made to me by J. C. Peters, a British subject, residing in Columbus, Georgia, that he has been compelled to enter military service under Governor Brown's order for a draft to complete the number of 8,000 men required from this State for State defence, and having failed to secure his exemption from Governor Brown while the force was under his command, it becomes my duty to apply to you on his behalf now that I observe, from Major General Cobb's General Order No. 7, dated at Atlanta the 29th of September, that these troops have been turned over to the confederate government.

I must beg you to bear in mind that it is the desire of her Majesty's government that no mention of her Majesty's legation at Washington be made in communications with the *de facto* authorities, whether of the individual States or of the general government of the so-called Confederate States. You will in all such communications, whether they be verbal or written, carefully avoid mentioning any allusion to me or this legation.

I forwarded to Earl Russell a copy of your despatch of the 27th ultimo, and I shall also send his lordship a copy of this answer to it.

I am, &c.,

LYONS.

Circular addressed to her Majesty's consuls in the Confederate States of North America.

FOREIGN OFFICE, October 11, 1862.

SIR: Her Majesty's government have had their attention called to the forcible enlistment of British subjects in the army of the so-called Confederate States.

I have to instruct you to lose no time in remonstrating strongly against such a proceeding on the part of the authorities of those States.

British subjects domiciled only by residence in the so-called Confederate States cannot be forcibly enlisted in the military service of those States by virtue of an *ex post facto* law, when no municipal law existed at the time of the establishment of their domicile rendering them liable to such service.

It may be competent to a State in which a domiciled foreigner may reside to pass such an *ex post facto* law, if at the same time option is offered to foreigners affected by it to quit, after a reasonable period, the territory, if they object to serve in the armies of the State: but without this option such a law would violate the principles of international law; and even, with such an option, the comity heretofore observed between independent States would not be very scrupulously observed.

The plainest notions of reason and justice forbid that a foreigner admitted to reside for peaceful and commercial purposes in a State forming a part of a federal union should be suddenly, and without warning, compelled by the State to take an active part in hostilities against other States which, when he became domiciled, were members of one and the same confederacy; which States, moreover, have threatened to treat as rebels, and not as prisoners of war, all who may fall into their hands.

To these considerations must be added the fact that the persons who have been the victims of this forced enlistment are forbidden under severe penalties by the Queen's proclamation to take any part in the civil war now raging in America, and that thus they are made, not only to enter a military service contrary to their own wishes, and in violation of the tacit compact under which they took up their original domicile, but also to disobey the order of their legitimate sovereign.

You will urge these several considerations on the *de facto* authorities of the Confederate States, adding that her Majesty's government confidently hope and expect that no further occasion for remonstrance will arise on this point.

I am, &c.,

RUSSELL.

Whilst her Majesty's government might be well content to leave British subjects voluntarily domiciled in a foreign country liable to all the obligations incident to such foreign domicile, including, where imposed by the municipal law of such country, service in the militia or national guard or local police, for the maintenance of internal peace and order, or, even to a limited extent, for the defence of the territory from foreign invasion, it is not reasonable to expect that her Majesty's government should, in the present state of things in this country, remain entirely passive under the treatment to which British subjects are exposed; such, for instance, as being compelled to serve in regiments nominally of militia, while they would be really exposed, not only to the ordinary accidents and chances of war, but also to be treated as rebels and traitors in a civil war involving many questions in which they as aliens cannot, simply by reason of this domicile, be supposed to take interest, as to which they may be incompetent to form an opinion, and in the determination of which they are precluded from freedom of choice and action. No State can justly frame laws to compel aliens resident within its territories to serve against their will in armies ranged against each other in civil war, and, *à fortiori*, in the absence of such laws they cannot enforce the service.

To these considerations must be added the fact that the persons who are the victims of this forced enlistment are forbidden, under severe penalties, by the Queen's proclamation, to take any part in the civil war now raging in this country, and that thus they are made, not only to enter a military service contrary to their own wishes, and in violation of the tacit compact under which they took up their original domicile, but also to disobey the order of their legitimate sovereign.

I have always understood that the men composing this force for State defence were only expected to defend their homes from sudden incursions or raids from the federal forces, and that it was not contemplated to take them from their homes, or to interrupt their ordinary avocations, unless in case of such sudden emergency. But it appears that they are ordered into camp for the purpose of being incorporated with and made part and parcel of General Bragg's army now confronting the federal forces in the upper part of this State. You must admit that service for such a purpose is simply conscription under another form.

Under my instructions I have felt it to be my duty to advise British subjects that, whilst they ought to acquiesce in the service required, so long as it is restricted to the maintenance of internal peace and order, whenever they shall be brought into actual conflict with the forces of the United States, whether under the State or confederate government, the service so required is such as they cannot be expected to perform.

I respectfully submit that Peters, as a *bona fide* British subject, is entitled to exemption from service, and beg that you will release him from a position which forces him to violate that neutrality insisted on in her Majesty's proclamation.

I may mention that Peters was a member of a company of foreigners tendered to and accepted by the mayor of Columbus for police duty, but, when drafted, was assigned to a company from that city commanded by Captain Brooks.

I am, &c.,

A. FULLARTON.

[Enclosure 2 in No. 10.]

Acting Consul Fullarton to Mr. Benjamin.

SAVANNAH, October 3, 1863.

SIR: With reference to my letter of the 1st instant, I have the honor to request you to consider the representations therein on behalf of J. C. Peters, as

made also on behalf of the following British subjects, namely : Alexander Pratt, Anthony Cadman, Michael Riley, and Henry Stephenson, of Columbus, and William Gray, of La Grange, Georgia.

Yours, &c.,

A. FULLARTON.

[For enclosure 3 in No. 10, Mr. Benjamin to Acting Consul Fullarton, October 8, 1863, see enclosure 2 in No. 8.]

[Enclosure 4 in No. 10.]

General Orders, No. 10.

HEADQUARTERS GEORGIA STATE GUARD,
Atlanta, October 10, 1863.

1. The State troops under the command of Major General Howell Cobb will hereafter be known and designated as the Georgia State guard.

2. The troops not yet called out are urged to complete their regimental organizations as required by General Orders No. 7, current series, from these headquarters. As soon as a regiment is organized the fact will be reported to these headquarters. The field officers of regiments organized prior to the 1st November next will be elected by the men ; after that date the companies not attached to regiments or battalions will be organized into regiments by order, and the field officers appointed by the president of the Confederate States. In cases of organized battalions, companies will be added to complete the regiment, and the additional field officers appointed by the president.

3. The commanding general desires all regiments, as soon as formed, to report to these headquarters whether or not they are willing, without reference to territorial limits, to defend their State wherever assailed or threatened. With the enemy in overwhelming numbers upon our borders, and just driven by our gallant army from the soil of our own State, he feels that the appeal will not be made in vain to Georgians to come forward and follow the patriotic example of their brethren now in the field, who have declared their willingness to waive all territorial claims, and go wherever the interest and safety of the State require them to go. He confidently trusts that none will be found willing to swell the ranks of the "solitary exception" who failed to respond to the call made upon those now in the field.

4. Conscript officers claiming persons in the ranks of the Georgia State guard as liable to conscription will present their claims to the commanding officer of the regiment, battalion, or company when unattached, whose duty it is to examine and decide the question of such liability, which can be reviewed, if necessary, at these headquarters, and finally by the department at Richmond. Conscript officers can reach the men in the ranks only through their commanding officer. Commissioned officers in service are not subject to conscription.

By command of Major General Howell Cobb:

R. J. HALLETT,
Acting Assistant Adjutant General.

No. 11.

Lord Lyons to Earl Russell.—(Received December 9.)

WASHINGTON, November 20, 1863.

MY LORD: I received on the 15th instant, from Acting Consul Walker, a copy

of his despatch to your lordship of the 19th ultimo, enclosing papers which had been published in the southern newspapers, with reference to the expulsion of the British consular agents from the so-called Confederate States.

Among these papers I found a despatch from Mr. Benjamin to Mr. Mason, dated the 11th of June last, which I read for the first time, and a despatch from Mr. Benjamin to Mr. Slidell, dated the 8th ultimo, of which I had before seen only the first and last paragraphs.

Mr. Benjamin objects very strongly to the British consuls in the southern States being under the orders of her Majesty's legation at Washington. This objection does not appear to me to be by any means unreasonable. I have, indeed, as your lordship is aware, long been of opinion that the connexion between this legation and the consulates in the south was embarrassing and inconvenient with regard both to the government of the United States and to the *de facto* government of the Confederate States.

With respect to the particulars of Mr. Cridland's appointment as acting consul at Mobile, Mr. Benjamin's information is not quite accurate. Mr. Cridland was appointed acting consul at Mobile in pursuance of the instruction contained in your lordship's despatch to me of the 17th February last.* He never held any commission or letter of appointment from me. I communicated your lordship's instruction to Mr. Moore, her Majesty's consul at Richmond, and I desired him to address a letter to Mr. Cridland, stating that her Majesty's government had been pleased to direct that he should temporarily take charge of her Majesty's consulate at Mobile. I added a special caution to Mr. Moore not to make any mention in the letter either of me or of this legation. In point of form, therefore, there was, I presume, nothing to object to in the letter of appointment held by Mr. Cridland. But when Mr. Magee was dismissed, your lordship instructed me to make provision for the appointment of a qualified person to carry on the consular duties at Mobile, and in execution of this instruction I had requested M. Portz, the French consul, to take charge temporarily of the British consulate. It was therefore necessary, when Mr. Cridland was appointed, that I should write to ask M. Portz to transfer the consulate to him. My letter to M. Portz was seen by some of the confederate authorities at Mobile. It was specially addressed to M. Portz, and it expressly stated that it was by her Majesty's government that Mr. Cridland was directed to take charge of the consulate at Mobile; but it appears to have been represented to Mr. Benjamin as a letter of

* *Earl Russell to Lord Lyons.*

FOREIGN OFFICE, February 17, 1863.

MY LORD: I have to state to your lordship that if you have any difficulty in finding on the spot a suitable person to take over the consulate at Mobile from Mr. Magee, I should think no better arrangement could be made than to desire Mr. Cridland to undertake the duty.

Your lordship will be best able to judge whether the presence of a consular agent at Mobile is constantly required for the protection of British subjects, or whether it would be sufficient for Mr. Cridland only to visit Mobile occasionally.

In either case, however, it would be necessary to provide Mr. Consul Moore with a temporary substitute for Mr. Cridland; and further, bearing in mind Mr. Moore's representations as to the impossibility of carrying on the business at Richmond without further assistance, I have to instruct your lordship to authorize Mr. Moore to engage such temporary assistance as he may satisfy you is really necessary; and as soon as I hear from you what expense will be involved in so doing, I will make a corresponding augmentation to the special allowance now granted to Mr. Moore.

If Mr. Cridland should be obliged to reside permanently at Mobile, he would be permitted to draw the same pay and allowances as have been granted to Mr. Magee; otherwise, your lordship will award to him such an allowance as may appear reasonable to cover his expenditure and to serve as remuneration for the performance of his duties.

I am, &c.,

RUSSELL.

appointment from me to Mr. Cridland. But however this may be, it does not seem to me to be unnatural or unreasonable that the confederate authorities should view with displeasure even the merely formal intervention of this legation in the appointment of consular officers in the confederate territory.

Mr. Benjamin's complaint concerning the dismissal of Mr. Magee by her Majesty's government is less reasonable. Mr. Magee was dismissed for assisting persons in the Confederate States to export specie from a blockaded port, and this was an act manifestly inconsistent with his duty as the officer of a neutral sovereign, and a flagrant violation of the Queen's proclamation. It is not, however, surprising that my endeavors to prevent Mr. Magee's committing this breach of blockade should have increased the displeasure with which the confederates viewed the connexion between this legation and the southern consulates. Mr. Benjamin's dissertation on the duty of paying debts may, indeed, be passed over as entirely beside the question. I was, of course, as desirous as any one could be that money due to British subjects should be remitted to them; and I have ever been most anxious to diminish in every possible way, not inconsistent with positive duty, all the hardships inflicted on my countrymen by the blockade. But to export specie from Mobile was a manifest breach of the blockade of that port, and to send it through the blockading squadron in a British man-of-war was a direct violation of the understanding with the United States government, in virtue of which her Majesty's ships communicated with the blockaded ports. So long, therefore, as her Majesty's consuls in the south were under my orders, it was undoubtedly my duty to prevent their being concerned in any such proceeding. It so happened that the confederate authorities were, at the time, particularly anxious to find the means of exporting specie, in order to pay for munitions of war procured in Europe; and it appeared afterwards that they had hoped that the British government would allow her Majesty's ships to be employed to carry through the blockading squadron specie sent in payment of purchases of this description made in Great Britain. It was natural, therefore, that my attempt to prevent the breach of blockade at Mobile, and the dismissal of Mr. Magee by her Majesty's government for being concerned in it, should be regarded with displeasure by the confederates. It was, of course, equally my duty to hinder the British agents under my orders from committing breaches of blockade, whatever might be the article to be exported, and whatever reason the belligerent, whose ports were blockaded, might have for desiring the exportation of it. But it is not surprising that this affair should have increased the susceptibility of the confederates with regard to the connexion between this legation and the southern consulates..

I have, &c.,

LYONS.

No. 12.

Acting Consul Fullarton to Earl Russell.—(Received February 1, 1864.)

SAVANNAH, October 23, 1863.

MY LORD: I have the honor to enclose to your lordship a copy of my reply to Mr. Benjamin's despatch to me of the 8th instant, conveying the president's order to depart promptly from the confederacy, and in the mean time to cease the exercise of consular functions.

Mr. Benjamin has thought proper to publish his despatch to me in the Richmond newspapers.

Having had committed to my charge the interests of several parties absent in Europe, which my departure would seriously injure, I have requested Mr. Benjamin to rescind that portion of the order requiring me actually to withdraw from the confederacy.

I have, &c.,

A. FULLARTON.

[Enclosure in No. 12.]

Acting Consul Fullarton to Mr. Benjamin.

SAVANNAH, October 22, 1863.

SIR: I have the honor to acknowledge the receipt, on the 14th instant, of your despatch to me of the 8th, communicating to me the president's order that I should promptly depart from the confederacy, and in the mean time cease to exercise any consular functions within its limits.

Your despatch conveys to me the reasons which have induced this action. These reasons have no existence in fact, and I should content myself with a simple denial of the charges you make, were it not that you found them upon language used by me which I should have supposed could not fairly be misconstrued; but as it has been so strangely misinterpreted, and such serious and I may say unheard of charges have been preferred by you against her Majesty's government, and against all her Majesty's consuls in the confederacy, it seems to be due to them at least that I should endeavor to disabuse your mind.

In the first place, I will observe that your accusations are made against her Majesty's consular servants in the plural number. Mr. Cridland, of Mobile, has not exercised any of the functions of his office; therefore, Mr. Walker, her Majesty's acting consul in Charleston, and myself, are the only officers to whom your charges can refer. Mr. Walker will doubtless deal with the matter in his own way, and I propose to defend myself only.

That you may be under no mistake as to what my instructions in reference to the service of British subjects in the armies of the confederacy or any of the confederate States really are, I will here repeat them, viz: "That the plainest notions of reason and justice forbid that a foreigner, admitted to reside for peaceful and commercial purposes in a State forming a part of a federal Union, should be suddenly and without warning compelled by the State to take an active part in hostilities against other States which, when he became domiciled, were members of one and the same confederacy."

Therefore, both in contemplation of the organization of the militia of the State of Georgia, and in anticipation of a State draft from that organization for purposes inconsistent with that instruction, it was my duty to advise such of her Majesty's subjects as might be enrolled for militia service and subjected to such draft, in the language you have first quoted; and unless you possess the information that all her Majesty's subjects in the State of Georgia have enlisted in confederate service, I am at a loss to understand how you can regard this as an assumption on my part of "the power of determining whether enlisted soldiers of the confederacy are properly bound to its service."

The second quotation of my language is as easily explained. Militia service is peculiarly an organization for neighborhood defence, and if a British subject, being a militia-man, is called from his neighborhood, which is properly defined by the word home, or involuntarily drafted into service for which he is not liable, I have done no wrong in directing him to refuse the required service by rejecting the arms that may be thrust upon him; and it is this advice to British subjects, not enlisted, but willing to perform all that the laws of the State can justly require of them, that you have been pleased to magnify into advice "to soldiers of the confederate armies to throw down their arms in the face of the

enemy." It seems to me impossible to read the language you have quoted without perceiving that it has no application at all to the enlisted confederate soldier, unless, as I said before, you assume that all British subjects have enlisted in the confederate service, and I should imagine it is not necessary for me to tell you that the fact of enlistment deprives the soldier of all protection, as of right, from the consequences of his enlistment.

Having thus shown how extravagant is the construction you have placed upon my language, I have only to deny the correctness of every conclusion you have drawn and every assertion you have made. I have not failed to forward to her Majesty's government a copy of your despatch, and I shall inform them of the publication and circulation you have thought proper to give to it.

I am, &c.,

A. FULLARTON.

No. 691.]

Mr. Adams to Mr. Seward.

LEGATION OF THE UNITED STATES,

London, May 13, 1864.

SIR: The conference met on Monday, as many thought, for the last time. The result disappointed expectation. A truce for thirty days, from the 12th instant, was agreed on. This is said by the London Times to have saved the ministry; for a motion of want of confidence was in preparation, which would probably have been carried had the conference broken up. There is a visible increase of the war feeling. It showed itself most unmistakably in the House of Commons on Monday night, when the announcement of the Danish naval success off Heligoland was received in a manner scarcely consistent with the customary decorum of that body.

But although this difficult corner has been turned, there is no marked increase of confidence in an ultimate settlement of the dispute. The German powers show no signs of yielding a jot of their advantages without securing their object in the practical dismemberment of Denmark. On the other hand, the proposition of the Germans to submit the question of their status to the popular decision in the duchies themselves, which appears to receive the indirect countenance of France, seems to carry with it the possibility of consequences in every direction that are scarcely likely to secure it a favorable hearing. If the treaty of 1852 be adhered to as the basis of settlement, the object of the war in satisfying Germany will not have been gained by the two great powers. If, on the other hand, it be abandoned, there seems to be no alternative but the popular will. Any pretension of Prussia to claim the duchies for her own benefit will receive little countenance in any quarter, whilst it cannot be said that the recovery of her authority by Denmark is at all probable. The plan which would seem the most likely to arrive at some result would be, whilst conceding the nominal sovereignty of Denmark, to recognize the duchies in some form as a constituent portion of the Germanic Confederation. This would be a virtual triumph of Germany, and equivalent to the elimination of Denmark from the list of the powers of Europe—a result which, so far as it is possible to judge from appearances, would be regretted only by Great Britain. The true reason of this must be found in the fact that it embraces in reality the most democratic community on the continent. In the state of things thus described, it does not seem likely that any immediate decision will be arrived at in the conference. The attention of all Europe will then be apt to continue for some time fixed upon the proceedings in this capital.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

No. 692.]

Mr. Adams to Mr. Seward.

LEGATION OF THE UNITED STATES,
London, May 13, 1864.

SIR: I have the honor to transmit a copy of the London Times, containing a report of the speech of Mr. Gladstone, in the House of Commons, on Wednesday afternoon, on the question of franchise.

I need not say that this is one of the most significant events of the day. It at once marks out the shape which parties are likely to take after this ministry shall have vanished from the scene. Whilst, as a first consequence, it seems to render the return of the conservative party to power nearly certain, it betokens a close of that period of transition between one phase of government and another, which for the time has had the effect of almost paralyzing its executive energy.

The expectation seems now to be general that this change is soon to take place. I have not the necessary time to dwell upon the subject longer by the present opportunity.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

HON. WILLIAM H. SEWARD,

Secretary of State, Washington, D. C.

HOUSE OF COMMONS, WEDNESDAY, MAY 11.

BOROUGH FRANCHISE BILL.

Mr. BAINES, in rising to move the second reading of this bill, claimed the indulgence of the house, as he had to address them on behalf of a class of persons who neither by themselves nor by their representatives could be heard there. He had to appeal to a highly aristocratic assembly on behalf of a plebeian community, for, strange as it might appear, the House of Commons was in the main an aristocratic assembly with an admixture of the middle class. He believed, however, that that house would always remain in a great degree an aristocratic assembly, because of the great advantage which wealth, rank, and education gave men for the service of their country in a legislative capacity. The great grievance that was complained of by those whose interests he was advocating was that the commons of England had no voice whatever in the nomination of the commons' house. [Hear.] He did not mean to say that in no borough nor county were there any working class representatives; but the great and broad fact remained that the great bulk of the working classes was wholly unrepresented in this house. [Hear, hear.] He deemed that fact to be at the same time his weakness and his strength in his advocacy of the bill which he now submitted,—his weakness, because he could not expect to enlist the sympathies of those whose interests were adverse; his strength, because the house, like all assemblages of Englishmen, would be disposed to deal justly and generously with those who stood in need of their generous consideration. [Hear.] The bill which he had introduced differed essentially from that of the honorable member for East Surrey, as while that honorable member sought to give a fuller representation to a class already partly represented, the object of the bill was to extend the range of representation, bringing it down to a lower level, so as to include a considerable but not excessive number of the working classes. It was well known that the working classes comprised about three-

fourths of the entire population, and yet, speaking generally, that class was almost wholly excluded from participation in the privileges of the franchise. The honorable member for Shoreham had given notice of his intention to move the previous question. From that notice it was to be inferred that the honorable member did not intend to oppose the principle of the bill, but probably intended to object upon the grounds of time and expediency. As to time, he thought there could be no better opportunity than the present for the settlement of a question which must be dealt with sooner or later. This was the last or the penultimate session of this Parliament, and he could not but think that the proper time to deal with this question was when Parliament was approaching its natural termination, and when a general election must necessarily soon take place. Then as to the expediency of agitating this question now, he would remind the house that honorable members sitting with him on that side were called upon to redeem the pledges which they gave at their elections to support a reform bill of a more extensive character than the bill that was proposed by Lord Derby's government. The policy of a £6 franchise was distinctly affirmed by the country at the last general election, and surely now, in a time of political calm and industrial prosperity, it was the proper moment for them to redeem their pledges to their constituents. It would be very objectionable if that house were to lay down a rule that it would never act except under popular coercion. He repeated that the opinion of the people of this country had been expressed upon this question, and it was the duty of their representatives now to carry that opinion into effect. The events which had occurred of late years had been so absorbing and of such great importance as materially to interfere with the expression of political opinions on the part either of employer or employé; but he would not admit that this apathy by any means proved that any change of opinion had taken place with reference to this subject. [Hear, hear.] As a proof that this apathy was not universal he would refer to the numerous petitions which had been presented by honorable members advocating the extension of the franchise. He would also remind the house that the present time was eminently favorable to the admission of the working classes to the participation of political power, because it was always better to grant such reforms willingly than to have them exacted through public agitation. [Hear.] The sympathy with which the working classes regarded the extension of representative institutions abroad proved, also, that they could not be entirely indifferent to an increase of liberty at home. He would appeal to the spirit of the age as a further proof of the necessity for the movement which he advocated. Since the reform bill of 1832 representative institutions had become general throughout nearly the whole of Europe. He believed, from what had fallen from members upon the opposition benches, that he might look to the conservative aristocracy for a great amount of sympathy with the rights and interests of the working classes.

On the occasion of the debate upon the county franchise bill the honorable member for Northamptonshire had expressed his opinion that the house ought to recognize the rights of the laboring class to some share of political power, from which, in spite of their increased intelligence and respectability, they were at present excluded. He believed that, judging from those opinions, he might rely upon the support of the honorable gentleman on the present occasion. The honorable member for Northamptonshire had said that there were "many on his side of the house" who shared the opinion that the working classes were entitled to the franchise. The honorable and learned member for Belfast, who was solicitor general under Lord Derby's government, (Sir H. Cairns,) had said he "would not reduce the franchise in boroughs so low as £5." He hoped, therefore, he might infer that the honorable gentleman would approve its reduction to £6. The right honorable member for North Wilts, who was a secretary of state under the conservative government, (Mr. Sotherton-Estcourt,) was "in favor

of a moderate extension of the franchise." The honorable baronet, the member for Hertford, (Sir M. Farquhar,) was also "in favor of admitting the working classes to a large share of the franchise." The member for Carnarvon (Mr. Finch) was "in favor of a larger extension of the suffrage than Lord Derby's bill effected." The right honorable member for Oxfordshire (Mr. Henley) and the right honorable member for the University of Cambridge (Mr. Walpole) actually quitted the government of Lord Derby because of his unsatisfactory reduction of the borough franchise, and the latter gentleman was understood to favor a £6 rating franchise. The honorable baronet, the member for Stamford, (Sir S. Northcote) also a distinguished member of Lord Derby's government, was "in favor of removing the anomalies from and moderately extending the franchise." The right honorable baronet who represented Lincolnshire, (Sir J. Trollope,) and who was president of the poor-law board under Lord Derby, was "in favor of lowering the franchise, especially in towns." And the gallant member for West Sussex (Mr. Wyndham) was "in favor of extending the franchise to the intelligent portion of the working classes." He also maintained that the recorded opinions of the noble viscount, the member for West Kent, (Lord Holmesdale,) the honorable baronet the member for Ayrshire, (Sir J. Fergusson,) the honorable member for North Essex, (Mr. Du Cane,) the honorable member for Berkshire, (Mr. Benyon,) the honorable member for Stoke-upon-Trent, (Mr. Copeland,) the honorable member for Tynemouth, (Mr. Hodgson,) the honorable member for Buckingham, (Mr. Hubbard,) the honorable and learned member for Chippenham, (Mr. R. Long,) the honorable and learned member for Truro, (Mr. Montague Smith,) the honorable member for Dumbartonshire, (Mr. Smollett,) and the honorable member for Hull, (Mr. Somes,) warranted him in believing that they would regard the present measure with favor. Honorable members would allow him to bring forward two branches of evidence which to his mind were absolutely irresistible. He could quite understand so strong an advocate of the increase of education as Earl Russell shrinking in 1831 from proposing an extension of the franchise to the working classes, but it should be remembered that no statistics upon the subject had then been collected since those obtained by Lord Brougham in 1818. According to those statistics the number of day scholars in England and Wales was 647,000, or one in every seventeen of the population. A commission issued subsequent to the passing of the reform bill showed the number to have increased to 1,276,000, or one in eleven of the population. In 1858 the results of another commission showed that the number had reached 2,535,000, but in the census of 1861 a similar return was made, and this return included what did not appear in the others—those who were educated privately. The number was then 3,120,000. [Hear, hear.] That return proved that England was one of the best educated countries in the world, and that prodigious strides had been made since 1830 and 1831 in the matter of education. The other branch of evidence was the marvellous increase of popular literature, and the figures to which he purposed to call the attention of the house would, he hoped, completely exonerate the right honorable gentleman the chancellor of the exchequer from any blame which might be attributed to him on account of his removal of the taxes upon knowledge. The figures were not recommended to the consideration of the house upon his own authority, for they were supplied by gentlemen who were in every way calculated to possess information upon the subject of the increase of political journals. In 1831 the stamp returns showed that the total circulation of papers in that year was 38,648,314, of which number 32,000,000 were published in England, 4,360,564 in Ireland, and 2,287,750 in Scotland. In 1864 the daily circulation of the London daily papers alone was 248,000, giving a total for the year of 87,776,000. The circulation per issue of the metropolitan weekly papers was 2,263,000, and the total for the year 117,686,400, so that the yearly circulation of journals in London was 205,462,400 copies, as against 118,000,000 in 1861,

when the right honorable gentleman, the chancellor of the exchequer, proposed to repeal the taxes on knowledge. In 1854 there were five daily papers in the provinces, with a daily circulation of 10,000, while the number in consequence of the right honorable gentleman's measure had increased to fifty-two. In England there were now twenty-seven papers with a daily circulation of 263,000, in Wales one with a circulation of 2,000, in Ireland fourteen with a circulation of 96,000, in Scotland nine with a circulation of 77,000, and in Jersey one with a circulation of 1,000, amounting to an aggregate daily circulation of 439,000, or a yearly circulation of 137,407,000 copies. The circulation of provincial weekly papers was 3,907,500 per issue, and the annual issue 203,190,000, giving a total circulation for the provincial papers of 340,597,000, or 1,313 per cent. over the number issued in 1831. [Hear, hear.] In addition to these papers there had sprung up a large quantity of most useful and interesting literature in the shape of magazines, periodicals, and serials. He had a return of the monthly issue of magazines and periodicals of a literary, scientific, and religious kind, showing that there were published monthly 1,809,000 religious works, 793,000 temperance, 338,000 useful, educational, and entertaining, 244,000 magazines and serials of a higher class, and 363,000 serials issued by great publishing firms, highly embellished and illustrated, making a total monthly issue of 3,609,000. [Hear, hear.] Of weekly publications there were issued : religious, 489,000 ; useful, educational, and entertaining, including serial republications of standard works, 734,000 ; journals, containing novels, tales, biographical sketches, &c., 1,053,000 ; romances exciting wonder and horror, 195,000 ; the decidedly immoral and impure publications, the issue of which three years ago was 52,500, were now reduced to 9,000, [hear, hear ;] and the free-thinking were under 5,000. [Hear, hear.] Thus, the total issue of weekly publications was 2,485,600, and the grand total of monthly and weekly publications 6,094,950. [Hear, hear.] This estimate excluded all the issues of the British and Foreign Bible Society, religious tracts and missionary literature, the extent of which was enormous and ever-increasing, as well as all books issued in the form of volumes. In 1831 the aggregate circulation of monthly magazines issued in London did not, on a very liberal estimate, exceed 125,000 ; now they were 3,609,000. He believed he should be going beyond the mark in saying that the weekly and monthly issue of serials in that year amounted to 400,000 ; now they were 6,094,000, or an increase of 15-fold. [Hear, hear.] These facts were surely most gratifying. It had been feared that in throwing open the flood-gates of knowledge direct encouragement would be given to impurity and infidelity ; but, on the contrary, as he had shown, publications of this class had immensely diminished in number, and those of a sacred, a useful, and an innocent class had taken their place. On these points he had thought it undesirable to rest satisfied with the evidence of persons in London, and he had therefore written to two gentlemen in the provinces of the highest authority on the subject. Mr. Guest, bookseller of Birmingham, said :

"I consider that every grade of the working classes is in a state of progression. Our free library has been opened with great and increasing success. The number of volumes issued during the past year was 357,436, daily average 436, and about 10,000 persons have visited the reading-room. Building societies have increased in number and amount of business, proving that careful and provident habits are understood and practiced. Sunday and other schools have progressed in the amount of usefulness. I have every reason to think that in the last three years the class in whose hands you wish to place the franchise, namely, the £6 householders, have materially increased in intelligence, and that they are fully entitled by their qualifications to the right to vote. The newspapers have made rapid strides. We have two dailies and four weeklies, circulating about 250,000 copies per week. Periodicals and other newspapers have by no means diminished in sale, but I am not in a condition to give you

even an approximate number. There are about 300 families wholly or partially supported by the sale of the various publications, and they employ 1,000 persons at the least. This state of things, contrasted with the state of things up to midsummer, 1830, when we had two papers only, whose total circulation was not more than 6,000, and only three periodicals, at 2d. and 3d., for the whole country, is such that a parallel can only be found in the extension of trade and travelling from railway, and letter-writing from cheap postage."

Mr. Alderman Heywood, ex-mayor of Manchester, said:

"It is frequently asserted by members of Parliament, and by those who copy them, that the people care nothing for the right to vote; that they are apathetic, and want not the franchise."

He then accounted for their present quietness by their being wearied of political agitation, and by asking in vain for the franchise; and he stated that they had turned their attention to the co-operative societies as a means of improving their circumstances. He added:

"But all these men are advocates for the right to vote, without any other qualification than that of enrolment. But it is amazing to see the progress they have made during the last twenty or twenty-five years. Whatever may be said to the contrary, there is a sturdy self-reliance being implanted in the people, which will exhibit itself whenever the right man in the right place is displayed before them. Great measures have been carried during years gone by, of immense value to the workman, such as the abolition of the bread tax, the uniform system of postage, and the entire abolition of the duty upon newspapers—measures which, had they been accompanied with a progressive admission upon the electoral lists, would have silenced political agitation forever. Are the people fit for the exercise of political power? I thought they were in 1832; I am the more firmly convinced of it now. Since 1849 no political *émeute* or disturbance has taken place here or in the neighborhood, nor would the bitterest foe to popular right find occasion to justify his resistance in the conduct and behavior of the people. I need not refer to the example they have shown, the sufferings they have borne, during the last two years, as instances to prove how greatly the principles of law and order have become associated with their daily life."

With these facts before the house, showing the vast progress which this country had made in education and intelligence, the house would surely be justified in an extension of the franchise. The particular class upon whom he sought to confer it was exactly that upon whom all these influences concentrated. They were the better part of the working classes—not the idler, the scapegrace, the vagrant, or the man sunk in sensual gratification, but those by whom this mass of cheap literature had been to a great extent bought and absorbed—the educated, the steady, the sober, the settled, the industrious, and the provident part of the working classes. [Hear, hear.] Could it be doubted that such men were fit to exercise the franchise? Hitherto every grievance redressed and every abuse swept away had been followed by increased contentment and loyalty among the people, so that reform had proved of all things the most conservative. [Hear.] The more you trusted the people the more you would find they deserved to be trusted. It was said that if the franchise were conferred on the working classes they would prove dependent and corruptible. He believed that this was utterly untrue, and that workingmen were not so dependent upon masters as was supposed. What would be the effect of the extension of the franchise which he proposed, namely, a £6 rental in boroughs? From a return issued in 1860 it appeared that the number of borough electors was 443,000, and it was estimated that the reduction of the franchise to £6 would add 210,000 to this number, being an increase of 48 per cent. Last year he had moved for a similar return, but unfortunately it only referred to 77 out of 200 boroughs. The same officer of the poor law board, however, who had revised and sifted the return of 1860 had gone over this, and he estimated

the present number of borough electors on the register was 487,000, and that the reduction of the franchise now proposed would add some 240,000 electors, being an increase of 49 per cent. This was a very moderate addition. The census of 1861, brought up to the present time, showed the number of adult males in the represented boroughs of England and Wales to be 2,268,169; and supposing 728,300 of these had votes, as would be the case if his bill were adopted, 1,539,860 would still be left unrepresented. [Hear, hear.] The proportion of working men to the middle and upper classes in boroughs would then be between one in four or one in three. Now, it was known that the upper and middle classes were only one-fourth of the population, while the working classes were three-fourths. Yet the upper and middle classes would have about two-thirds the votes in boroughs. In the counties the working classes had no appreciable share in the representation; and, looking to the whole country, therefore, it would be found that even after the proposed extension the working classes would enjoy only about one-fifth or one-sixth of the representation. [Hear, hear.] He thought that this would be a moderate and a safe measure, that it would conduce to the concord of the people and to the stability of our institutions. [Hear, hear.] He believed it would redeem the honor of Parliament, which was in great danger of being sacrificed by the non-carrying out of the pledges given at the last general election, and afterwards by the government. If a considerable number of the sons of industry were admitted to the franchise, they would prove a defence to the throne, a great accession to our strength in war, and to our prosperity in peace. [Hear, hear.] With the seer of old, speaking of an ancient people, he believed he might say to constitutional England, "Lengthen thy cords and strengthen thy stakes." [Cheers.]

Mr. CAVE, in rising to move the previous question, said that he should not attempt to follow the honorable member for Leeds through a mass of statistics and figures, which could not be checked in a debate, and which he had adduced apparently for the purpose of proving that the change he proposed was really no change at all. It was enough to say that it had been made quite clear on former occasions that in almost every borough in England the addition he would make would be quite enough to turn the scale. [Hear.] He should now endeavor to show that if, as the house decided by a large majority in 1861, the time the honorable member then chose for his motion was not a convenient one, the present could not be considered more happy. He should try to prove this from the arguments brought forward then, and reiterated now by the honorable gentleman, as well as by suggesting that the reasons which he (Mr. Cave) then adduced had, if anything, gathered strength in the interval. It was objected before, and probably might be again, that his motion ought to be for the rejection of the bill altogether; but, though the effect would undoubtedly be the same, he had chosen this form as evincing no hostility to the honorable member's doctrine, that the working classes ought to have a share in the representation. A very able professor, whose talents he admired, and whose misfortune he deplored, Mr. Fawcett, said the other day, in a lecture on reform, in Manchester, that "he hated the phrase that the working men ought not to have the franchise because they had no stake in the country." Now, he should not like to indorse all the learned gentleman's views, but he entirely concurred in this; and therefore he felt disposed to ask the house to agree with him in postponing the consideration of the amount of that share which the working man had, and that which he should have, to a more convenient season, rather than to move the direct negative, since his motives in doing this would certainly be misrepresented by those whose interest it was to give themselves out as the friends of the working man. He said the share which he had, for had not a great change taken place since 1832? In these thirty years had there not been a vast alteration in the material condition of the working classes? [Hear, hear.] The £6 and £10 houses of that day bore a very different value now. We knew that house-rent had doubled

and trebled in large towns, and the wages of skilled labor risen in proportion, so that if, as the honorable member averred, education and intelligence had reached a lower social stratum, then he answered that these changes to which he referred had already raised the best of that stratum to a higher political position. The committees under the new assessment act had told us that the question of valuation was now entirely unsettled, and the general impression appeared to be that the majority of houses of this description were even now valued far too low. Therefore the changing value of property was effecting a reform in the direction aimed at by the honorable member, silently, and gradually, and safely to the nation, though he could well imagine that this might not be satisfactory to those who preferred a violent change with a flourish of trumpets, and would sacrifice anything for a little fleeting popularity. [Hear, hear.] He hoped the honorable member would understand that he made these remarks generally, and was far from supposing them to apply personally to himself, as he believed his character to be entirely above such imputations. And now he would proceed to examine those arguments of the honorable member in his former motion on this subject, which were based upon his conjectures of what might happen in future. He need hardly say that prophecy was very dangerous, unless the prophet's predictions were so vague that, like the oracles of old, they might be read in more ways than one. [A laugh.] But the honorable member was, if he might presume to say so, almost rashly precise. He said that the spring of the year 1861 was the proper time for deciding this question, and why? Because "we had had one bad harvest, and were threatened with a second. Recent events across the Atlantic had raised doubts as to the supply of our most important raw material. The nations of Europe were bristling with arms. It was possible that a time of trial awaited us from domestic distress and foreign danger. Should it be so, where would be our security but in a people satisfied with their institutions?" He begged the attention of the house to that expression. We had been much worse off than the honorable member even imagined we might be. Not only had his anticipation of a bad harvest in 1861 been realized, but we had another in 1862. Nor had there been doubts as to our supply of cotton, but it had been almost wholly cut off, and the industry of the northern counties had received a blow unparalleled in their history. [Hear, hear.] For some weeks of the very year in which the honorable member made that speech we did not know whether we were not at war with the United States, and what was the conduct of the working classes of England? Did we hear of a repetition of the reform riots of Nottingham and Bristol? [Hear.] Was there any evidence of bitterness against the wealthier classes, or any disposition to take advantage of the calamities and dangers of the country? [Hear.] Was there not, on the contrary, an universal outburst of loyalty on the mere rumor of war? and did not the nation work together, high and low, north and south, east and west, to tide the factory operatives over the cotton crisis, as if instead of the hard strata of unsympathizing castes, as honorable gentlemen opposite sometimes were pleased to represent us, we were members of one family, with a common object and common interests? [Cheers.] He asked whether the conduct of the people of England during these twenty-four months of the severest trial we had ever known was not that of a "people satisfied with their institutions?" The honorable member was entitled, no doubt, to use this most admirable behavior in support of his present motion; but he appealed to the house whether he had not at least an equal right to employ it in demolishing his former position? [Hear, hear.] The honorable member for Birmingham also took up his parable, and said a little earlier that if the bill of 1860 did not pass there would be delegates from every Trades' Union in the country sitting in London. That showed, by the way, the honorable member's idea of the independent exercise of the franchise by the working man.

Well, the bill of 1860 did not pass, and in 1862 there were delegates, if not from all the Trades' Unions, certainly from all the trades in the country, as-

sembled in London, and for what purpose? Not for a barren agitation in which the best working men took no real interest, though some of their leaders made a profitable trade of it, [hear, hear;] but for the real, tangible, sensible, and legitimate object of improving their taste and skill in workmanship, and so attaining that material prosperity which would quickly enable the intelligent and industrious to cross the almost imaginary barrier of disfranchisement whenever they might care to do so. [Hear, hear.] But were there no signs of discontent now? Why, we had had mass meetings and indignation meetings within the last few days, and with what object? The mass meetings were to plant trees in memory of Shakespeare; the indignation meetings had no greater grievance to declaim against than the premature departure of an illustrious stranger. [Hear.] In listening to the speeches of some honorable members one would suppose that we lived in a political state resembling that of France before the first revolution, when there was a barrier against which talent, industry, and ambition surged in vain on one side, while pride, indolence, and luxury looked carelessly on on the other; and yet even while they were speaking hundreds upon hundreds of the working classes rose with ease to competence and the franchise; while the commanding intellects among them, who formerly led the masses against the ranks above, now simply came forth from the crowd, obtained affluence and position, and not only votes but seats in that house, and might aspire, without either presumption or despair, to the highest offices. And as, in a well-ventilated room, when the heated air rose the cold fell in constant circulation, so in this free country there was a perpetual recruiting of the higher ranks from the lower, and sinking of the higher into the lower again, until, as had once been observed, it was difficult to decide whether we had the most democratic aristocracy or the most aristocratic democracy in the world. [Hear, hear.] Surely it was far better that men should rise to the franchise than that the franchise should be lowered to them. Surely those who had so risen ought to be the last to advocate indiscriminate scattering of the privileges they had worked for, and he believed, as a matter of fact, the great body of £10 householders had no wish to be swamped by a vast influx of the ranks below them. [Hear, hear.] Indeed, it stood to reason that a transfer of power to the masses as masses by mere lowering of the franchise must be dangerous, because those classes which worked from morning till evening had, to use the words of the member for Birmingham, "limited means of informing themselves on these great subjects." They were, therefore, at the mercy of mere declaimers, who bowed the hearts of great masses as one man by the force of the voice alone, as an eloquent counsel would excite the sympathy of his audience without the least reference to the justice of his cause. [Hear, hear.] There were times of great excitement when masses of people could not be induced to hear reason, and therefore the transfer of power to those who naturally and habitually acted in the masses was dangerous even without question of the intelligence and education of the component part of the mass. He had seen, at least on one occasion, even that house act very much like an infuriated mob. But perhaps the best illustration of what he meant was afforded by a scene in which the member for Birmingham himself took a part in 1857, when not even his powerful voice, and readiness of speech, and former popularity could gain him a hearing from a body of people, scarcely one of whom perhaps knew the real objects of the war for which they were so enthusiastic, and, if he had known them, would probably not have given a day's wages or an hour's thought on their behalf. The working men were, like other people, good, bad, and indifferent; but, like all others who from circumstances had much in common, were apt to be led by the worst among their number. The true, honest, industrious workmen—the men who were respected by their employers, were rarely much of politicians, and seldom had the "gift of the gab;" yet in times of excitement, as we had already seen, they too often lacked courage to assert their independence, and surrendered their

will to unscrupulous agitators, just as in American elections the majorities, or "self-styled" majorities, to use a classical expression, exercised a complete tyranny over the rest of the community, and drove them like sheep to the poll. Why, it was only the other day that a newly-made corporation elected as their chief magistrate a man who had been twice convicted of using false weights before the very bench on which he was now to sit; and we know the £6 element pretty nearly controlled municipal elections. He was not now talking of working men pressing their own interests against those of other classes, but of their sending there as their representatives strike-leaders and such like, when there were members on both sides of this house whom individually they would consult on any emergency fifty times rather than their ostensible leaders at whose chariot-wheels they were unresistingly dragged. But supposing they did understand and work their own interests, then they must not be allowed to overbalance the best. He would not trust any interest with overwhelming power; and it was the excellence of our constitution that one interest checked another, and all were kept within proper bounds. He remembered many years ago having the advantage of an acquaintance in Boston, in the United States, with the late Mr. Abbott Lawrence, who was afterwards American minister at this court. At a party in his house the repudiation of the State debts was being discussed, and compared, as Americans were fond of doing, to the suspension of cash payments by the Bank of England. When the company had gone their host remarked to him, "After all that has been said, it was a very disgraceful thing; but if your cabmen in London were told that if the national debt was wiped out they would get beer at half-price, don't you think they would vote for it?—because that is our case; those are the people who govern us here." [A laugh.] He believed our cabmen were much improved since those days, and perhaps the American statesman might have done them an injustice even then; but he was much struck with his words, and still more when he went on to say, "England seems hurrying towards universal suffrage. Ah! if she had only our experience; but she seems judicially blinded." The honorable member for Norwich (Mr. Warner) in an able pamphlet had explained this danger, and proposed a certain number of mouth-pieces for working men, in the shape of delegates from their own body as representing extra seats in large towns. Whether the Sussex laborer would think the Manchester artisan a better representative of his interests than his own landlord or neighbor, he questioned. In Sweden the peasantry had a house of Parliament to themselves, as had the nobles, the clergy, and the burghers. These four chambers must concur on all legislative measures; but the system worked badly, and naturally, therefore, threw more power into the hands of the executive, the result being that the Parliament met only once in three years, the government doing pretty much as they liked in the interval. [Hear, hear.] He must say he had no great faith in symmetrical constitutions. He preferred that which worked fairly to that which ought to work perfectly. England should remember the epitaph on a tombstone: "I was well; I wanted to be better, and here I am." A Prussian once said to him, "I cannot understand your English constitution; it is full of the most absurd anomalies, but everything seems to turn out right; while in Prussia we have a perfect constitution, but we are always in trouble—everything seems to go wrong." [Hear, hear.] But these anomalies were not all in one direction; a double first-class man or senior wrangler, who objected to pay for commons he did not eat and sermons he did not sleep under, and therefore took his name off the books, was called to the bar, or had the care of two or three thousand souls, and if he lived in furnished lodgings—a very common case—had no more vote than a pauper. The same was the case with officers in the army and navy and many others; so that the £6 franchise by no means produced the symmetry so much desired. [Hear, hear.] Did the people consider themselves unrepresented? He did not when he was one of them,

and he believed the working classes were fully represented in that house as far as their material welfare was concerned. Had not the tendency been to relieve them of taxation? To give merely one instance of a trifling character, but of very recent occurrence:

The chancellor of the exchequer proposed in his budget to remit a portion of the duty on licenses to sell tea in places outside of parliamentary boroughs. He took the liberty of stating to the right honorable gentleman grounds which he considered sufficient for extending the boon to people within those limits. And to whom had this concession been made? To those who, by means of their votes, could exercise pressure upon the government or their representatives? No; it was confined to occupants of £8 houses. [Hear.] Whenever there was a genuine feeling in the great body of the English people that they wanted something, they generally got it, and in such cases they had almost always a good reason for the demand. What was the general feeling now—a feeling which was not very likely to be weakened by the state of surrounding nations? Why, that peace, and equal laws, and security of life and property, were things worth having; not an artificial, symmetrical constitution, which was always coming to a dead-lock, as in Prussia—not extended suffrage, ending in despotism, as in France—not extended suffrage, tending to anarchy, as in America. [Hear, hear.] They did not consider a vote a good thing in itself, and they did not want it as an engine to bring about great changes, as was the case in 1832. Four times within a very brief period (without reckoning minor measures) had reform bills been introduced by the government of the day, and four times abandoned, without exciting more feeling in the country than so many railway or canal bills. In 1861 the honorable member for Leeds introduced his present measure, which was defeated, without much remark out of doors. Very strong speeches were undoubtedly made in its favor within those walls by two honorable members opposite. They seemed, however, to have modified their views, for one of them, the honorable member for Huddersfield, on a late occasion called the present proposal a single-barrelled reform bill—meaning, he presumed, by this disparaging description, that it was an antiquated weapon, not adapted to the wants or habits of the present day; and the other, the honorable member for Halifax, who denounced the government for their coolness on the subject of reform, became afterwards a member of that government, judging—and he thought wisely judging—that more good was to be done by applying his time and talents in limiting the expenses of government establishments than in ventilating speculative questions. [A laugh, and “Hear, hear.”] The few petitions presented in favor of reform, when not mere copies of one model, varied most materially in the very principle of the measures they demanded. In 1861 he ventured to suggest that certain objects seemed to belong to certain periods, and that our whole attention was then concentrated on foreign affairs. He instanced the unsettled state of Austria and Italy, and he said that “seeds of discord were being sown in Hungary and Poland; that Prussia was threatening Denmark, and France threatening Europe.” Would the house say that this argument had not gained force by the lapse of those three years? And would any one assert that when the conference was sitting within a few yards of that house, with peace and war depending on its breath, and had been more than once, as they understood, on the point of breaking off at the very threshold of its deliberations—when the channel fleet was riding in the Downs, with fires banked up, anchors short stay apeak, and—as the noble lord, the secretary to the admiralty, told them the other night in the most significant manner—ready to sail anywhere in 24 hours—would any one assert that this was the time to plunge the country into the troubled waters of domestic revolution? [Cheers.] The true policy was, not to meddle with our institutions except in an emergency which rendered it absolutely necessary, and then to do our work in such a manner as to settle the question at least for our day. [Hear, hear.] If, there-

fore, the house did not feel that the present was the time for even a comprehensive, well-considered measure, brought in by the government with the solemnity befitting the occasion, still less favorably did they feel towards this bit-by-bit reform—this pecking at our institutions—this instalment, as they had heard it called; but it was the kind of instalment which one of the ingredients of a physician's prescription would be without the rest. The whole might be a salutary remedy; part alone might be fatal. [Hear, hear.] If there was to be a more numerous constituency, care must be taken so to balance the new proportions as to gratify a desire for enfranchisement without destroying the present constitution, which worked so well. That man must have attended the House of Commons to very little purpose who was not convinced that every interest—he cared not whether landed, mercantile, shipping, railway, or any other—would be disposed to use preponderating influence for its own advantage. He could not suppose that the working classes would be more abstinent; therefore he feared that what the honorable member called moderate reform might turn out to be a dangerous revolution. If his fears were groundless, and if the honorable member's own estimate were more accurate, then it was merely throwing a tub to a whale, and would be simply the prelude to more sweeping changes. [Hear, hear.] In either case, he ventured to repeat that a far more comprehensive, more deeply considered measure was requisite for the attainment of the honorable member's object, without grave peril to the common weal; and as he believed that the house and the country were indisposed just now, for the reasons which he had endeavored to state, to enter upon so intricate and difficult a task, he ventured humbly to move that the present was not the time for putting this question. [Cheers.] The honorable member concluded by moving, as an amendment, the previous question.

Mr. MARSH had much pleasure in seconding the amendment. There were no public meetings in favor of this reform, and it seemed to him that nobody outside wanted it. It was a measure more sought for in the House of Commons than anywhere else. [Hear, hear.] And he confessed he did not know why that should be, because he, for one, thought he had constituents enough. [A laugh, and hear, hear.] It might be said that a time when the people did not ask for reform was the best time to carry it; but he did not agree in that doctrine. If they looked to the history of the world, they would find that all great political and social reforms had proceeded from the people. [Hear.] And the monarchs who had attempted to lead their people in those directions had not been the luckiest. [Hear, hear.] A great deal had been said about the working man not being represented in the House of Commons. He had analyzed his own constituency, and he found that a very large number of the people who occupied £10 houses either had been mechanics or were at the present moment living by the work of their hands. [Hear, hear.] The people who lived in the great squares of London were virtually unrepresented, while the publican at the corner who had his rooms engaged as committee-rooms very likely had a score of votes at his command. [Hear, hear.] The same was the case in the Tower Hamlets—all those who owned the great docks and warehouses there were virtually unrepresented. [Hear, hear.] No one could complain that the interests of the working classes were not well looked after. There was always a cheer when anything was done for them. [Hear, hear.] And sometimes bills were passed in utter defiance of all principles of political economy for their benefit. [Hear, hear.] If any one wanted to encourage bribery and corruption, he had but to support the lowering of the franchise. [Hear, hear.] In all the boroughs which had obtained notoriety on this score, it was the freemen, and not the £10 householders, who formed the bribed classes. [Hear, hear.] For these reasons he seconded the amendment of the honorable gentleman opposite. [Hear, hear.]

The CHANCELLOR OF THE EXCHEQUER. The speech of the honorable gentleman opposite, in my opinion, went far beyond the scope of the motion which he

has submitted to the house; for it was really a speech against the extension of the franchise in the direction of the working classes, and it did not refer merely to the particular question which we are called upon to decide on this bill. However, it may be said that it is the motion of my honorable friend with which we have to deal, and let us, then, consider what is the issue raised for our present decision. There are two points bearing upon this question—one a matter of fact; the other a matter of judgment, upon which there may be said to be a general concurrence of opinion. With regard to the matter of fact, there is no doubt that those who sit on the other side may be said to be unanimous in deprecating at the present time—and certainly, as far as the honorable gentleman went, at any time—the extension of the franchise. I don't conceal or deny, on the other hand, that the other great party in this country is not unanimous on the subject. [General cheering.] The second point, upon which I think all parties are agreed, is this: that this is not a period at which it would be advisable, or I might even say justifiable, for the government of the Queen, however it may be composed, to submit a measure on this subject to Parliament. Under these circumstances, the question is, What course ought we to take on the motion of my honorable friend, having regard to the amendment which has been moved for postponement? My honorable friend, without communication with the government, and acting, as far as I am aware, entirely in the exercise of his own discretion, has brought this matter before us as a subject for discussion. It may be said that the motion of the honorable gentleman opposite, which is a motion for time, does, in fact, merely embody the admissions I have myself made—that this is not a period for dealing with this question, and that that party which represents the liberal opinions of the country is not unanimous on the subject. [Hear, hear.] Why, then, do I vote against the honorable gentleman's motion? It is because, apart from his speech, it appears to me to support, to justify, and to confirm a state of facts and opinions which I deeply deprecate and deplore. [Cheers.] Admitting the existence of those opinions within the limits I have described—and it is useless to shut our eyes to their existence—I must say that I deeply deplore them. [Hear, hear.] I will not go the whole length of my honorable friend in respect to what he said as to the pledges of governments and parties, but I will not scruple to admit that it appears to me that so much of our parliamentary history during the last thirteen years—that is, since the vote on Mr. Locke King's bill in 1851—as touches parliamentary reform is a most unsatisfactory chapter in it. [Cheers.] I am convinced that the discussion of this question in the house must, by the gentle process by which parliamentary debates act on the public mind, bring home the conviction that we have not been so keenly alive to our duties in this matter as we ought to have been, and that it is for the interests of the country that this matter should be speedily entertained and settled. [Cheers.] It is an advantage in the discussion of this question that, at present, at all events, it is not strictly a party question. I am afraid, however, if I take as a criterion the cheers with which the speech of the honorable gentleman opposite was received, and the side from which they proceeded, that the time may come when this may become a party question. For the present, however, we may discuss it without exclusive reference to party associations; and here I may say that for this reason I am glad—though for others I am not—that the honorable member for Salisbury has stepped into the arena on this occasion, because the circumstance enables us to find our way into the discussion of this question without feeling that we are irritating and exciting those passions and party sentiments which necessarily enter into our debates when party interests are concerned.

I will address myself, then, to the question actually before us, admitting again that if I deeply deplore the state of opinion opposite, I am far from being satisfied with the state of opinion on this side of the house. My honorable friend the member for Salisbury appears to think that he has made out his case

when he says that anybody who desires the extension of the franchise downwards desires also the encouragement of bribery, and that the working classes have their interests well attended to by the house as at present constituted. I decline altogether to follow my honorable friend into the argument whether or not the extension of the franchise downwards would really lead to the encouragement of bribery. I would simply record my emphatic dissent from that statement. [Cheers.] But with respect to the fact that the working classes have their interests well looked after by this house, far be it from me to deny that this house has a strong feeling of sympathy with the working classes, [hear, hear;] but permit me to say that that sympathy is not the least strongly felt among those also who are the immediate promoters of this bill. [Hear, hear.] With regard to the assertion that nobody desires a measure of this sort, I want to know where, in a discussion such as is now before us, lies the burden of proof? Is the *onus probandi* upon those who maintain that the present state of the representation ought not to be touched, or upon those who say it ought to be amended? The honorable member for Shoreham says the case of the British constitution, after a bill of this sort, will be like the case of the man over whom was written the epitaph, "I was well, I would be better; here I am;" and he told us that to venture on a reform such as is presented in this bill was entering on a domestic revolution. I entirely deprecate the application of language of that kind to this bill. [Cheers.] I will not enter into the question whether the precise form of franchise and the precise figure which my honorable friend has indicated is that which upon full deliberation we ought to choose, whether the franchise should be rate-paying or occupation, or whether or not there should be a lodger's franchise; but this I say, not to be misunderstood, and this I apprehend my honorable friend's bill to mean, that I give my cordial concurrence to the proposition that there ought to be not a wholesale, but a sensible and considerable addition to that portion of the working classes—at present almost infinitesimal—which is in possession of the franchise. [Cheers.] If I am asked what I mean by a "sensible and considerable addition," I say that I mean such an addition as I think would have been made by the bill which we as a government submitted to the house in 1860. Does the *onus* of proof of the necessity of such a measure lie with us? What is the present state of the constituency, any departure from which the honorable gentleman deprecates as a "domestic revolution?" At present we have, speaking generally, a constituency of which between one-tenth and one-twentieth—certainly less than one-tenth—consists of working men. [Hear, hear.] And what proportion does that fraction of the working classes who are in possession of the franchise bear to the whole body of the working men? I apprehend I am correct in saying that they are less than one-fiftieth of the whole working classes. [Hear, hear.] Is that a state of things which it would be "a domestic revolution" to meddle with? [Cheers.] I contend, then, that it is on the honorable gentleman that the burden of proof lies ["oh, oh," from the opposition;] that it is on those who say it is necessary to exclude forty-nine fiftieths that the burden of proof rests; that it is for them to show the unworthiness, the incapacity, and the misconduct of the working classes. ["Oh, oh," from the opposition, and counter cheers.] I am sorry to find that it is thought necessary to argue this question by what, perhaps, to use a mild phrase, I may call "inarticulate reasoning," [laughter,] and I will endeavor not to provoke more of it from a certain quarter of the house than I can help. [Hear, hear.] But it is an opinion which I entertain that if forty-nine fiftieths of the working classes are to be excluded from the franchise, it is upon those who maintain that exclusion that it rests to show its necessity. [Hear, hear.] On the other hand, my honorable friend indicates that kind of extension of the suffrage which would make the working classes a sensible fraction of the borough constituency—an important fraction, but still a small minority of it. [Hear, hear.] That is the proposition we have before us.

We are told that the working classes don't agitate; but is it desirable that we should wait until they do agitate? [Hear.] In my opinion, agitation by the working classes upon any political subject whatever is a thing not to be waited for, not to be made a condition previous to any parliamentary movement, but, on the contrary, is to be deprecated, and, if possible, prevented by wise and provident measures. [Hear, hear.] An agitation by the working classes is not like an agitation by the classes above them having leisure. The agitation of the classes having leisure is easily conducted. Every hour of their time has not a money value; their wives and children are not dependent on the application of those hours of labor. When a working man finds himself in such a condition that he must abandon that daily labor on which he is strictly dependent for his daily bread, it is only because then, in railway language, "the danger signal is turned on," and because he feels a strong necessity for action and a distrust in the rulers who have driven him to that necessity. [Hear, hear.] The present state of things, I rejoice to say, does not indicate that distrust; but if we admit that, we must not allege the absence of agitation on the part of the working classes as a reason why the Parliament of England, and the public mind of England, should be indisposed to entertain the discussion of this question. [Cheers.] I have had a recent opportunity of judging for myself of the views of the working classes on this subject. It arose incidentally, but I thought it worth attention at the time, and it may be worth the attention of the house. It was in connexion with the discussion on the government annuities bill, when a deputation representing the most extensive combination of the working classes of Liverpool came to me and expressed their sentiments with respect to that bill.

Mr. HORSFALL. It was not a deputation from Liverpool, but from London. [Hear, hear.]

The CHANCELLOR OF THE EXCHEQUER. I didn't say Liverpool. ["Yes, yes."] I beg pardon, then; I meant London, and I thank the honorable gentleman for the correction, as it enables me to report the views of a body of men eight times larger than the working men of Liverpool. [Hear.] They said to me, "If there has been a disinclination to this bill on the part of the working classes, it is owing to their dissatisfaction with the conduct of Parliament with reference to the extension of the suffrage." My answer to them was, "If you complain of the conduct of Parliament, depend upon it the conduct of Parliament has been connected with the apparent inaction and alleged indifference of the working classes with respect to the suffrage." The answer made a deep impression on my mind. They said, "It is true that since the abolition of the corn laws we have given up parliamentary agitation; we began to feel then that we might place confidence in Parliament—that we might look to Parliament to pass beneficial measures without agitation. We were told then to abandon those habits of political action which had so much interfered with the ordinary occupations of our lives, and we have endeavored to substitute for them the employment of our evenings in the improvement of our minds; but don't turn round on us and say that we don't care for the extension of the franchise because we don't agitate for it." [Cheers.] The objection made by the honorable gentleman opposite and many others is, that the working classes, if admitted even in limited numbers, or at all events in a considerable proportion, will go together as a class, and wholly separate themselves from other classes. I don't wish to use harsh language, and therefore I won't say that that is a libel, but I believe it to be unjustified by reference to facts. It is not a fact that the working men who are invested with the franchise go together as a class, and there is not the slightest reason to suppose that they would go together if there were a moderate and fair extension of the suffrage. If you were to adopt a sudden and sweeping revolutionary measure which would give a monopoly of power to the working classes; if, instead of one-third, you gave the franchise to two-thirds, there

would be some color for the anticipation; there would be some temptation to set up class interests on the part of those who would then have the means of obtaining a monopoly of power, and it would be for us to show that there no danger would arise. But I appeal to the evidence of all who know anything of the facts to say whether we have not seen the working classes when they possessed the franchise, instead of being disposed to go together as a class, rather inclined to follow their superiors, to confide in them, to trust them, and to think well of their conduct. Their landlords in the country, their employers in the town, their neighbors, and those whose characters they respect—these are the men whom the working classes select to follow, [hear, hear;] and if there is anything which will induce them to band together as a class, it will be a sense of injustice. [Hear, hear.] Whatever tends to denote them as persons open to the influence of bribery, as persons whose admission within the pale of the constitution constitutes a “domestic revolution;” whatever tends to denote them as unworthy of confidence and respect, is calculated to drive them back to the use of their natural means of self-defence, and might possibly, in times we can conceive, become the source of a union of the working classes, which would be adverse to other classes. [Hear, hear.] It is worse than idle, after the able and luminous speech of my honorable friend, to detain the house with the statistics of the question; but I take my stand on the reform bill of 1832, and my belief is that before 1832, the epoch of the reform act, although the working classes were not better represented in this house, yet we had among the constituencies some of an important character which were entirely and absolutely working-class constituencies. [Hear, hear.] I myself sat for a scot and lot borough—Newark. At the time that I was first returned for that borough, in December, 1832, the constituency was close upon 1,600, and the constituency is now a little more than 700; in fact, it is in progress of regular decay. That borough was enfranchised in the time of Charles II, when the crown did not fear to issue writs calling for the return of members by constituencies consisting of all who paid scot and lot. Since the act of 1832 there has been a large deduction made from the number of working men in the possession of the franchise by the changes which have taken place in the condition of the boroughs called potwallopers, scot and lot boroughs, and by other denominations. I greatly doubt whether, after making fair allowances for the bettered circumstances of working men, as large a proportion of them hold the suffrage now as in December, 1832. [Hear, hear.] If that is so, is it fair and proper that in the thirty-two years which have since elapsed a reduction should have taken place in the proportion which they bear to the rest of the constituency? [Hear, hear.] Have they no claims to an extension of the suffrage? I think the facts are clear, and I think my honorable friend has shown that a great portion of the facts are reducible to figures, and are capable of being extended with reference to education and the state of the press. Let me, then, refer to one or two points which are not reducible to figures. We are told, for instance, that the working classes are given to strikes. I believe it is the experience of the employers of labor that these strikes are more and more losing the character of violence and compulsory interference with the free will of their own comrades and colleagues, and are assuming that legal and, under certain circumstances, legitimate character which they have as the only means labor can fairly possess of asserting itself against capital in the friendly strife of the labor market. Let us take, too, that which in former times I believe to have been the besetting sin of labor—the disposition of the majority not to recognize the right of the minority, and, indeed, of every single individual to sell his labor for what he thinks fit. On behalf of the laboring classes I must say that this doctrine is much harder for them to practice than for us to preach. [Hear, hear.] We have nothing analogous to that which the laboring man feels when he sees his labor being, as he thinks, undersold; but still it is our duty to assert in the

most rigid terms and to carry high the doctrine of the right of every laboring man to sell his labor as high or low as he pleases. [Hear, hear.] But with respect to this point, which has certainly been a point of weakness, I appeal to those who have experience of the working classes whether there is not reason to believe that the progress of knowledge has borne fruit. [Hear.] Has not the time come when every class of working men admit the right of freedom of labor as fully as it could possibly be asserted in this house? Let us look, for instance, to the altered relations of the working classes to the government, the laws, the institutions, and, above all, to the throne of this country. Let us go back—it is no long period in the history of a nation—to some years before the passing of the reform bill, and consider what was the state of things at a time when many of us were unborn, and when most of us were children—I mean to the years which succeeded the peace of 1815. We all recollect the atmosphere and the ideas under the influence of which we were brought up. They were not ideas which belonged to the old current of English history, nor were they in conformity with the liberal sentiments which pervaded, at its best periods, the politics of the country. They were, on the contrary, ideas referable to the lamentable excesses of the French revolution, which produced here a terrible reaction, and went far to establish the doctrine that the masses of the community were naturally antagonistic to the laws under which they lived, and were disposed to regard those laws and those by whom they were administered as their natural enemies. Unhappily there are too many indications to show that this is no vague or imaginary description. The time to which I am alluding was one when the deficiencies in the harvests were followed by riots, and when the rioters did not hold sacred even the person of majesty itself. In 1817, when the Prince Regent came down to open Parliament, his carriage was assailed by the populace of London; and what was the remedy provided for this state of things? Why, the suspension of the *habeas corpus* act, the limitation of the action of the press, already restricted, the establishment of spies, who, for the security of the government, were sent throughout the country to arrest persons in the formation of conspiracies. [Cheers.] And what, let me ask, is the state of things now? Why, that this epoch removed from us, in a mere chronological point of view, by less than half a century, is in reality separated from us by a distance almost immeasurable. [Hear, hear.] Now, the fixed traditional sentiment of the working man is confidence in the law, in Parliament, and in the government. [Cries of “No, no,” and laughter.] The quick-witted character of honorable gentlemen opposite outstrips, I am afraid, the course of my observations. I was about to proceed to say, in illustration of my argument, that only yesterday I had the satisfaction of receiving a deputation of working men from the Society of Amalgamated Engineers, and that society, consisting of immense numbers, had large balances of money open for investment, and that many of its members would not feel satisfied unless they were allowed to place their money in the hands of the government by means of some change in the post office savings bank system. Now that, I think I may say, without being liable to any expression of feeling on the part of honorable gentlemen opposite, was a very small indication among thousands of others of the altered temper to which I am referring. [Hear, hear.] But, instead of uttering on the point my own opinions, I would like to use the words of the working classes themselves. In an address which my right honorable friend the member for Staffordshire heard read at a meeting which was held in the Potteries last autumn, they say of their own spontaneous motion, uninfluenced by the action of their employers, in relation to the legislation of late years—

“The great measures that have been passed during the last twenty years by the British legislature have conferred incalculable blessings on the whole community, and particularly on the working classes, by unfettering the trade and

commerce of the country, cheapening the essentials of our daily sustenance, placing a large proportion of the comforts and luxuries of life within our reach, and rendering the obtainment of knowledge comparatively easy among the great mass of the sons of toil."

And this is the mode in which they describe the conduct of the upper classes towards them:

"Pardon us for alluding to the kindly conduct now so commonly evinced by the wealthier portions of the community to assist in the physical and moral improvement of the working classes. The well-being of the toiling mass is now generally admitted to be an essential to the national weal. This forms a pleasing contrast to the opinions cherished half a century ago. The humbler classes also are duly mindful of the happy change, and, without any abatement of manly independence, fully appreciate the benefits resulting therefrom, contentedly fostering a hopeful expectation of the future. May heaven favor and promote this happy mutuality! as we feel confident that all such kindly interchange materially contributes to the general good." [Cheers.]

Now, that language does, in my opinion, the greatest credit to the parties from whom it proceeds. [Hear, hear.] This is a point on which no difference of opinion can prevail. [Hear, hear.] I think I may go a step further, and consider these statements as indicating not only the sentiments of a particular body at the particular place from which they emanate, but the general sentiments of the enlightened working men of the country. [Cheers.] It may, however, be said that such statements prove the existing state of things to be satisfactory, [hear, hear;] but what I would say in reply to that argument is this, that every man who is not presumably incapacitated by some consideration of personal unfitness or political danger is morally entitled to come within the pale of the constitution. [Cheers and counter cheers.] Of course, the meaning of that is this, [laughter,] that sudden, violent, and intoxicating changes must be avoided, but that fitness for the franchise, when it is shown to exist—as I say it is shown to exist in the case of a select portion of the working classes—is not repelled on sufficient grounds from the pillar of the constitution by the allegation that things are as well as they are. [Cheers.] I contend, moreover, that persons entertaining such sentiments as those to which I have referred are fit to discharge the duties of citizenship, and that to admission to the discharge of those duties they are entitled. [Hear, hear.] The present franchise, I may add, on the whole—subject, of course, to some exceptions—draws the line between the lowest middle class and the upper order of the working class. As a general rule, the lower stratum of the middle class is admitted to the exercise of the franchise, while the upper stratum of the working class is excluded. That I believe to be a fair description of the formation of the constituencies in boroughs and towns. Is it a state of things, I would ask, recommended by clear principles of reason? Is the upper portion of the working classes inferior to the lowest portion of the middle? That is a question I should wish to be considered on both sides of the house. For my own part, it appears to me that the negative of the proposition may be held with the greatest confidence. Whenever this question comes to be discussed, with the view to an immediate issue, the conduct of the general body of the operatives of Lancashire cannot be forgotten. [Cheers.] What are the qualities which fit a man for the exercise of a privilege such as the franchise? Self-command, self-control, respect for order, patience under suffering, confidence in the law, regard for his superiors; and when, I should like to know, were all these great qualities exhibited in a more illustrious degree than under the profound affliction of the winter of 1862? [Hear, hear.] I admit the danger of dealing at once with enormous masses of men; but I am now speaking only of a portion of the working classes, and I for one cannot admit that there is that special virtue in the nature of the middle classes which ought to lead to our drawing a marked distinction between

them and a select portion of the working classes, so far as relates to the exercise of the franchise. [Hear, hear.] So far as Lancashire is concerned we have the most extraordinary evidence—evidence amounting almost to mathematical demonstration—of the competency of the working man to discharge such duties as are commonly intrusted to the lower part of the middle classes. I allude to the evidence afforded by the marvellous success of the co-operative system. [Hear, hear.] For my own part, I am not ashamed to say that if ten years ago anybody had prophesied to me the success of that system as illustrated in Rochdale and other towns in the north—if I had been told that laboring men would so associate together for their mutual advantage, to the exclusion of the retail dealer, I should have regarded the prediction as absurd. There is, in my opinion, no greater social marvel than the manner in which these societies flourish in Lancashire, combined with a consideration of the soundness of the basis on which they are built, for the bodies of men who must have had recourse to the system have been those who have stood out with the most manly resolution against the storms of adversity, who have been the last to throw themselves on the charity of their neighbors, and who have proved themselves to be best qualified for the discharge of the duties of independent citizens. [Hear, hear.] Having numbers of men of that description, it is, I think, well worth our while to consider what is the title which they advance to the generous notice of Parliament in regard to their appeal to be admitted to the exercise of the franchise. I myself confess that I think the investigation will be far better conducted if we approach the question in a calm frame of mind, [hear, hear,] without having our doors besieged by crowds, or our table loaded with petitions, than if we do not enter into it until a great agitation has arisen. [Hear, hear.] I believe that the most blessed of all social progresses is that which consists in the amalgamation together of the interests of all classes of the community, and the forgetting of those distinctions which tend to keep men asunder. [Hear, hear.] I know of nothing which could contribute in any degree comparable to that union to the welfare of the commonwealth. It is all very well to have armies, fleets, and fortifications, and to have them sustained as they ought to be by a sound system of finance, and out of a revenue not wasted by a profligate Parliament, or a profligate administration. But that which is more important still is that hearts should be bound together by a reasonable extension among selected portions of the people of a privilege to which they have a just title, and it is because I think that it will tend to that binding and knitting of hearts together, and thus to the infusion of new vigor into the old, but in the best sense still young and flourishing, British constitution, that I, for one, am prepared to give my support to the motion of the honorable member for Leeds. [Loud cheers.]

MR. WHITESIDE. I think it must be admitted that we have had reason to deplore the absence of the noble viscount at the head of the government more than once during our recent discussions. [Cheers.] His presence would be of value to us in the discussion of matters, not only of foreign policy, but of domestic interest, and it would be chiefly useful in those cases in which we might expect to have from him a satisfactory reply to his refractory chancellor of the exchequer. [Cheers and laughter.] In the midst of grave events of European interest this question of parliamentary reform suddenly reappears, and I would beg the attention of the house to the way in which it turns up at this crisis. It seems that individual members, for whom I have a great respect, are of opinion that the constitution of the country should be changed. The honorable member for East Surrey introduced a few days ago a bill to extend the county franchise, and he must have been pleased with the result of his motion, for he had the support of the noble viscount in a most enthusiastic speech, [a laugh,] which the chancellor of the exchequer has thought fit to follow up to-day in a speech directly leading to universal suffrage. [Cheers.] But why, let me ask, should

the house entertain a motion of the magnitude of that under our notice, emanating, as it does, from a private member? The noble lord the prime minister, on one of those lucky occasions on which he happened to have been driven from office, [a laugh.] said, in reply to the late Mr. Duncombe, that a measure proposing a change in the representation of the people was a matter of such importance that it ought not to emanate from a private member, but should, if introduced at all, be brought in on the authority of the responsible advisers of the crown. Now, that answer is, I contend, a complete objection to the present motion, even if there were no other; because if one private member can carry a motion to reduce the borough franchise to £6, there is no reason why another honorable gentleman below the gangway may not propose to reduce it to £3, which is mentioned in the present measure as a possible franchise. Therefore, the answer of the noble viscount refusing as a private member to introduce a reform bill is a complete and satisfactory reply to the motion of the honorable member for Leeds, and in favor of that of my honorable friend near me. [Hear, hear.] I heard the observations of the chancellor of the exchequer upon this point with some surprise, because when he spoke of the shortcomings of Parliament, and when the honorable member for Leeds spoke of the necessity for redeeming the lost honor of the government—the word “lost” is my own—I dare say that the house had forgotten the language of the honorable gentleman on the memorable occasion when the government that he served then, and serves now, were invited to withdraw their reform bill. I shall trouble the house with his observations:

“The right honorable baronet the member for Herefordshire, whose good faith in giving us the advice no one can doubt, also recommended us to withdraw the bill. The course which the right honorable gentleman asks us to take, however, is one which it is impossible for the government to adopt. I may, at all events, venture to say for myself, that in my opinion any ministry which should have introduced a measure such as this with so little caution and in a shape so unfitted to undergo discussion as to render it expedient that it should be withdrawn, without the decision of the house being taken upon it, would in so acting have covered itself with irretrievable disgrace. I may add that no such idea, or intention, or dream, as the adoption of such a course presupposes has ever entered our heads.”

To withdraw that reform bill would, according to the strong language of the chancellor of the exchequer, cover the government that introduced it with irretrievable disgrace. In a few days afterwards they withdrew it. I leave every honorable member to draw the conclusion. [Cheers.] When observations are made upon the conduct of Parliament and the honor of the government I am justified in appealing to the testimony of the chancellor of the exchequer; and while I admit that a government which introduces a bill of vast importance must be understood to have staked their character and credit upon it, I shall presently have occasion to show that the same men who resorted to the factious contrivance of an abstract resolution to evict their opponents from power, when they introduced a bill not as good as the one they rejected, covered themselves, according to the words of the right honorable gentleman, with irretrievable disgrace by withdrawing it without the decision of the house having been taken upon it. [Hear, hear.]

When we are told that we are to receive this bill, I ask the house to consider another subject. A great measure was introduced by that government I admit, and a very important measure by the government of Lord Derby. What is the present plan of parliamentary reform? One gentleman cuts a slice out of the first bill, lays it on the table, and calls upon the house to adopt it. Another highly respectable member of Parliament cuts out another slice and says: “Adopt that,” without any regard to the general scope of either of those measures to which I have referred. Without any provisos or safeguard a particular clause

is abstracted from a bill, and the House of Commons is told to settle the question by taking one part of an important measure and rejecting the rest. My confident belief is that the chancellor of the exchequer, in making the speech which we have heard, never imagined that the House of Commons would assent to that proposal, but that he thought it to be a safe opportunity and a good occasion on which to make a little political capital. [Loud cheers.] I understood him to say very unequivocally that the honorable member for Leeds had no connexion with the government; that the government had nothing to do with the honorable member, nor the honorable member with the government. I understood him to hint, in his usual peculiar manner—vague and undefined as his language sometimes is, still we can make out his meaning—that the time was not suitable for the government to deal with the subject; that, personally, he had no objection to the details of the measure, but would not pledge himself to them; that he was not quite certain that, being the chancellor of the exchequer, he ought to touch the figures to which reference had been made, but that he thought that he might give a safe, definite, and worthless support to an impracticable scheme. [Cheers.] I think I might almost content myself by giving to the chancellor of the exchequer the answer which the noble viscount at the head of the government gave to Mr. Duncombe; but the right honorable gentleman has a peculiar mode—rather an abstract mode—of presenting a question to the house by telling us what the honorable member for Leeds means by his bill. That is no argument. The question is what the bill means. It speaks for itself, and we can all understand it. It is to introduce some 250,000 or 300,000 men whom we do not know much about suddenly into the constitution. [Ministerial cheers.] Honorable members opposite cheer, but if I don't know much about a subject I don't like to touch it. Honorable members are quite satisfied to introduce half a million of persons into the constituencies, and to do it under the allegation, which has no foundation in fact, that the introduction of this vast body is to be scattered over the whole of the country. Now, we know that this bill cannot apply at all to the great cities, and must apply with overwhelming effect to certain boroughs in the country. We know very well that in this city there are very few houses the rent of which is not £10 a year, and that a great number of the working classes vote for the members for our metropolitan boroughs. Are we not satisfied with what we have got? [Laughter and cheers.] Are we ungrateful for what they have done for us? Are we such political cormorants as to demand that all England shall be metropolitanized? [Renewed laughter.] I confess that I am slow to believe it! [Cheers.] Abstracting the large cities, and remembering that the change will apply only to a certain class of boroughs in the country, we must see that the admission to the franchise of these 250,000 or 300,000 persons is a very perilous political experiment, which, once made, can never be altered or reversed—an experiment which, if made at all, ought to be propounded by the responsible ministers of the crown, acting as a body, through their chief, who is unfortunately absent to-day, but who if present would, I have no doubt, have delivered as enthusiastic a speech in favor of this bill as he did in favor of the bill of the honorable member for Surrey. It was a damper. [Loud laughter.] He destroyed every clause of the bill, showing very clearly what a difference there may be between theory and practice, and how a theoretical reformer may be a practical conservative. [Hear, hear.] The first word which I heard from the honorable member for Leeds as I came into the house was the word "distraction." He said that foreign events had caused a distraction in the public mind, or else it would have been turned strongly to parliamentary reform. Looking at the petitions which have been presented in favor of parliamentary reform during the last few years, the mind of the nation would appear to have been distracted in a very remarkable manner. In 1863 there were no petitions at all; in 1862 there were two, signed by 1,097 persons; in 1861 there were fourteen, signed by 2,225, and I am sorry to be obliged to admit that in 1860 the honorable member stood

alone in the country upon the subject. That is what I call a strong sensation in favor of reform, backed by the popular voice. [Laughter.] But to return to the word "distraction." I have heard of an eminent minister in a constitutional country, governed in a very constitutional manner—I mean Prussia—who, whenever it is necessary to bamboozle the Parliament, organizes a foreign invasion of some country that does not deserve and has not provoked the favors bestowed upon it. Whenever the Parliament asks questions about the number of soldiers who are to be paid, and the taxes which are to pay them, forthwith this M. Bismack organizes a foreign war, which is carried on in a graceful and truly happy manner. I can reverse that illustration. I can conceive a ministry who are apprehensive of a great act of retributive justice suggesting the discussion of parliamentary reform in order to distract attention from their own misdeeds. The honorable member for Leeds asked us to look round the world and consider the course of events. I will do so, and I ask what the government have done? They have alienated France. ["No, no," and "Hear, hear."] They have bombarded Japan, bullied Brazil, distracted China, inflamed and then deserted Poland, and have nearly finished Denmark. [Hear, hear.] And this is the moment when you are to reform the Parliament. In the time of Lord Aberdeen's government they said that the moment that war or danger of war approached, parliamentary reform was not to be thought of. You accepted that excuse. You forgave them the non-introduction of a bill then.

The gentlemen below the gangway who are sincere upon the subject of reform have, for several years, endured a government which has introduced no measure of parliamentary reform. They have been contented with the performance of the compact of Willis's rooms as it has been performed. The whigs embraced you, and they choked you in their embrace. [Loud cheers.] If we are invited to an investigation of that transaction, we will not shrink from it. I maintain that there is in the records of Parliament nothing so unjustifiable or so difficult to be reconciled to reason, justice, or common sense as the abstract resolution carried by Earl Russell to prevent the discussion of a reform bill; not to advance reform, but to oust the government and seize upon power. [Cheers.] The honorable member for Leeds talked about education. There lies the bill that provided an educational franchise. You refused to give it. It contained clauses providing a lodger franchise, on the ground that the clerk in a bank who paid five times as much rent as that of the house which you make the basis of the franchise had a better claim to be an elector than the £6 man who is engaged in daily toil all his life. You refused to allow that to be considered. Vast bodies of educated gentlemen were to be enfranchised. You refused to allow that bill to be read a second time. You voted for an abstract resolution—a course which, if generally acted upon, would make your proceedings ridiculous, your debates impossible, and would convert your assembly into a mere conclave of factious men who are looking out for some pretext to prevent the discussion of a measure which, according to their avowed opinions, it ought to be the dearest object of their hearts to promote. [Hear, hear.] I except the chancellor of the exchequer from the blame of that transaction. I admit that he did not vote for the abstract resolution. I admit, gladly, that it is a point, a redeeming point, in the political and peculiar character of the right honorable gentleman, that he stood up against Earl Russell upon that point. The attorney general also pronounced that memorable opinion that in his judgment it was a motion that emanated from a party—I forget whether he used the word "faction"—which emanated from a party, and was not intended to promote the discussion of the subject. How, therefore, does this question now stand before you? You will not listen to a bill which had in it much that was good, and then a new government comes into power. The first year they are too busy to introduce a reform bill. Multifarious occupations engross their minds, and there is no reform bill, yet you are all content. The next year

comes and brings with it a reform bill, but, as far as I could understand, no body of gentlemen were more rejoiced to see it die out tranquilly than were its creators. [Hear, hear.] I believe that they submitted to its withdrawal with perfect composure. I cannot read the hearts of men; but, although the chancellor of the exchequer must have conceived it to be an act which would subject the government to irretrievable disgrace, he quickly recovered his spirits, shook off the disgrace, and has remained in office from that time to the present without any reform bill, or any proposal to introduce one. Now, when a conference is sitting upon Denmark—and there is, I suppose, a prospect of an early dissolution—it is advisable to make a speech which is to lead to nothing, [loud cheers,] and to announce to the working classes of this country, who are not to be caught with chaff, that at some indefinite time, in some indefinite manner, by somebody, nobody can tell whom, a bill will be introduced which will recognize their many virtues, and acknowledge their growth in knowledge and industry. That is where the matter stands. Has the right honorable gentleman said that the bill is to be carried? Has he said that the government as a government will support it? I listened with all possible attention to ascertain whether there was anything serious in his support of the bill; but, although he spoke from the treasury bench, I heard nothing to induce me to think that he spoke the sentiments of the noble viscount. [Hear, hear.] I heard nothing to show that he was authorized by the head of the government to deliver that eloquent though somewhat sophistical speech; therefore, I come to the conclusion that in this assembly of busy and practical men the motion is only intended to afford an opportunity for making speeches useful for electioneering purposes. [Cheers.] Might I ask her Majesty's government whether the £6 men are to be introduced to restore the balance of power in Europe, or to restore the balance in favor of her Majesty's government? What way will it be? Was there ever before heard in an assembly of reflecting and educated men such an argument as the chancellor of the exchequer employed? "There you sit," he said to us; "I throw the *onus* upon you." I answer, "There you sit; I throw the *onus* upon you." [Hear, hear.] A proposal is made to change the constitution and to introduce, it may be, 300,000 men into the constituencies of a few boroughs in the kingdom, and the person who propounds it says, "I have no need to prove the wisdom of the innovation. It does not lie upon me to consider the facts or to offer arguments. I throw upon you, who are the objectors, to find reasons if you can, for I can find none in favor of the measure." Would such an argument be endured in any court or tribunal of reasonable men? No. On the contrary, it lies on those who propound this scheme to show not only that it is wise and safe, but that it is expedient. The honorable member for Leeds repeated the word "right." I deny the abstract right of any class of persons in this country to possess votes. I deny that the constitution ever asserted that principle. I also dispute the truth of what has been said as to unrepresented people. Are the working classes unrepresented? Does not the honorable member for Birmingham feel for them? Does he not represent them? Every word that has been spoken to-day is an argument to prove that they are felt for, that their interests have been considered, and that legislation has been directed to their benefit. And when you come to the practical result of your argument, it is that the people are in perfect concord, harmony, and affection with the classes who are above them. If so, how does the argument apply? If they are happy, if they are prosperous, if they have been advancing in knowledge and education under the system which exists, how does it follow that you should, therefore, change the system? The figures that have been referred to, the newspapers that have been recited, the eloquent passage just read by the chancellor of the exchequer, only prove how much good feeling and good sense there is in the people of this country, and it must be conceded that those who argue in favor of a bill of this kind at such a time,

and in such a manner, are more likely to disturb that harmony than to secure it. I do not admit that it is the theory of our constitution that there should be no unrepresented men. At what time, I ask the honorable member for Leeds, was the franchise ever separated from this condition, that it was to be associated, not with multitudes or vast masses of men, but with those who had sufficient property, and would exercise a free and independent will? The last argument of the chancellor of the exchequer was that the working classes are so contented with their superiors, that they would always vote with them, and never differ from them. I do not think that proves that they have an independent will. And what was 40s. a year at the time that it was made the test of the franchise in counties? Has the honorable gentleman considered that the equivalent for that sum was, in the reign of Queen Anne, £12, then £20, and now £30 a year? These gentlemen would exclaim against reverting to the ancient principles of the constitution, but the wisdom of our forefathers is not to be forgotten. Their idea of a county constituency was that the voter should be able to gird his sword upon his thigh, and follow the knight of the shire to fight against the enemies of the Crown and kingdom—and it was an excellent idea. [Hear, hear.] The honorable gentleman says that he objects to all sharp lines. Is not £6 a sharp line? What will you say to the man who pays £5, or £4, or £3 a year, and who is hinted at in the second clause of this exceedingly curt production? That argument is well put by Mr. Austin, who says:

“Every extension of the franchise in the direction of universal suffrage tends to introduce it, for the jealousy and ambition of the excluded classes are inflamed by the admission of those whose place in the social scale is not higher than their own.”

The argument is a very philosophical and, in my judgment, a very wise one. It is this: If you admit 200,000 or 300,000 men to the franchise, what will be the feelings of the persons below them? They will say, according to the argument of the chancellor of the exchequer to-day, “Is not the superior workman equal to the best of the middle class? I clearly am equal to those who are included; I am excluded because I pay only £4 a year; I demand my right;” and I should like to know how it could be refused. [Hear, hear.] The origin of the speech of the chancellor of the exchequer can very easily be traced. Some time ago he received a deputation, to whom he made a statement which, when I read it in the newspapers, prepared me for a brilliant oration at the first convenient opportunity, and during the sittings of the conference that opportunity has arisen. On that occasion the right honorable gentleman said, “he thought the remark of Mr. Odgers respecting the franchise perfectly justifiable”—as I don’t know what the remark of Mr. Odgers was I cannot state it:—“there was no doubt the liberal party in the House of Commons had failed in their duty in this respect towards the working classes, to whom he thought the franchise should be extended, and about which he should shortly have something to say in the house.” We have had that something to-day. [Hear, hear.] Let me refer for a moment to those meetings which have been held on Primrose Hill, and their mode of dealing with the right honorable gentlemen. I beg those respectable men not to suppose that I think their original meeting ought to have been dispersed. I thought it a most reasonable thing that they should inquire what had become of General Garibaldi. [A laugh.] He had been well received here, the diet was good, the company excellent—I believe equal to that of the selectest circles of Caprea; he was in the enjoyment of rude health, as every one who saw him could perceive; he was quite content with the country, and the country with him, but suddenly he vanished. [Cheers and laughter.] The working classes thought fit to meet upon the classic site of Primrose Hill to inquire into this matter, and immediately, with a happy instinct, they selected the chancellor of the exchequer, Lord Shaftesbury, and one or two other eminent persons as the chief offenders, and determined to deal with

them. They said that it was absolutely necessary that Parliament should be reformed; and why? That as soon as they got admission to this house they might demolish the chancellor of the exchequer. So that if the right honorable gentleman should attain the object of his new-born zeal, which must have grown up since he represented Newark in the good old times, as soon as these decided characters gain admission into the house they will make an attack upon the treasury benches which it would be impossible for the ministry, feeble as they are, to withstand. [A laugh and cheers.] The chancellor of the exchequer advocates the extension of the franchise on the ground that the working classes are industrious and respectable. I believe they are what he has said. So little inclination have I to speak disrespectfully of any class of people [hear, hear] that when a bill was introduced conferring a lodger and educational franchise I thought it was wise. But what is the argument of the honorable gentleman who introduces the bill? He sums up all the newspapers, and contends that they are only read by the non-electors. How does he prove that they are not read by the electoral body? I, too, have some figures here, and I consider them quite as good as those of the honorable gentleman. The total number of borough and county voters is 1,285,385, and multiplying the constituency by 300, which excludes the odd 65 days on which they do not read newspapers, it gives a total of 385,615,500. I only allow one newspaper to each elector, [much laughter,] and yet there is a calculation surpassing all the statistics of the honorable gentleman. Having disposed of the argument founded on the newspapers, I willingly admit with the honorable gentleman that many of the penny newspapers are well conducted and very largely read. Either he or some one else referred to America, where newspapers are published at a half-penny, and where they govern the State very largely. I am told that Congress is seriously considering the propriety of taking a halfpenny newspaper into its pay in order that its proceedings may be reported. At present nobody minds what Congress says or does, and unless a halfpenny journal condescends to report what they say their orations will never be known to posterity. [Laughter.] The honorable gentleman has spoken of the middle classes and of their refusal to admit the just claims of those below them in the social scale; but among the middle classes must be included a large number of the better order of working men, who by their own industry and energy have worked their way upwards. [Hear, hear.] Those men are now in possession of votes, for in this great and thriving country a large estate is not needed to constitute an elector. Let me ask the honorable gentleman, does he think that the right moment to make an experiment on a great scale in the direction of democracy is just at the time when the democratic principle is on its trial? [Cheers.] And in putting this question to him, I must in candor add that there was a vast contrast between the moderation of the honorable gentleman the member for Leeds and the extravagance of the right honorable gentleman the chancellor of the exchequer. [Loud cheers.] I understood the right honorable gentleman to say—and I thought the words so remarkable that I wrote them down—"Every man who is not subject to any incapacity ought to have the franchise." That points directly to universal suffrage, [loud cheers,] and although the right honorable gentleman immediately afterwards went on to explain—his talent for copious explanation I take to be even more remarkable than his power of humorous exposition, [laughter]—those were the very words he used. When the idea so thoroughly carried into practical operation across the Atlantic is put before us, as men of sense we have a right to express an opinion upon it; and though the democratic principle invigorates and gives strength and energy to such a constitution as ours, the question whether it ought to be made the predominant element of the state, and whether this house should be thrown into utter want of harmony with the other branch of the legislature by the concentration of the whole power of the country in the masses

proposed to be enfranchised, assumes a magnitude and importance not to be overrated. Inquiry was made in a city of 30,000 electors, with which I am acquainted, as to what classes of householders were at present excluded from the franchise, and it was found that there were some living in wretched back lanes and in the most filthy parts of that large city who let out portions of their small and frail tenements at 1s. a week to one person and 6d. a week to another, retaining an interest perhaps equal in amount in their own possession, besides the key of the hall door. Persons in such a position are among those proposed to be admitted to the franchise, and they are precisely those who would be exposed to the influences so well described in the course of the debate, not having a free and independent will to exercise. The chancellor of the exchequer says: "Are we to wait till the working classes agitate?" Now, that looked to me very like an invitation to agitate. [Cheers.] If I may express it in my own humble, unoratorical fashion, ["Oh, oh," and laughter,] it seemed to me that the meaning of that observation was, "why don't you agitate—why don't you complain?" "Why, sir," the working classes naturally replied, "we have no grievance." "Oh, but you ought to imagine a grievance; can it be that you have nothing to complain of?" "Well, no complaint in particular except the dispersing of the meeting on Primrose Hill and the sending away of Garibaldi, and we come to complain of your conduct on that occasion." [Much laughter.] Practically, what grievance has been put forward, what petitions presented, what complaints made?

It is said that the feeling of the English people in favor of liberty is so strong that they have expressed sympathy with every free State and every nation striving for liberty all over the world. I rejoice that they did so, [cheers;] but according to my estimate of the event which has most recently taken place they expressed their sympathy with that eminent Italian, not because they admired his political views, but because they thought him an unselfish, disinterested, heroic man, who risked his life in an undertaking from which he gained nothing, [loud cheers,] though achieving the liberties of others. Yet, are you aware that this same eminent person proposed that the Chambers at Turin should be dissolved and the King made dictator in order to carry out the objects on which he was bent? [Hear, hear.] Surely this is not constitutional government. [Hear, hear.] It would be a very interesting question to solve, whether liberty has suffered most from democracy or despotism; whether the wits who write and the men who think have not found out that by appealing to the suffrage of the masses, always ready to be governed by master minds, they can obtain power as complete and uncontrolled as the absolute imperial rulers of the world. The chancellor of the exchequer, who to-day addressed to the working classes such dangerous arguments in favor of agitation, introduced into his speech a very curious passage about the results of the French revolution and the relations at that time subsisting between the people and the state. What is the use, on a practical subject of this kind, of talking of what occurred before most of the members now in the house were born? [Hear, hear.] I do not know how matters stood in 1815; I only know what was said by M. Thiers of the results achieved by Castlereagh, and if he were now our foreign minister England would not be the laughing stock of Europe. [Loud and prolonged cheering, which began on the left hand of the speaker and rolled round the lower end of the house to the benches below the gangway at the ministerial side.] Lord Castlereagh was a minister who knew how to assert the dignity and power of England at the right moment [hear, hear;] and, as M. Thiers said, he achieved more than the great leaders who conducted the armies and fleets of England to victory. Why does the right honorable gentleman bring on this question of the French revolution? I venture to say that upon the records of no popular assembly which ever existed in the world can a greater number of remedial measures be found than were passed from the time of the French

revolution to the present in favor of the mass of the English people? [Cheers.] Merciful laws, wise improvements in every branch of the state, ending in the enjoyment of all those blessings and comforts and advantages which gentlemen opposite admit indeed, but which they use to furnish them with an argument against the value of the system under which they live, instead of the most powerful and conclusive argument in its favor. [Hear, hear.] The right honorable gentleman read a passage from a paper which we all admired. But it seems to me a very illogical process to produce the works of particular persons, who think correctly and who write in terms and language that command an approval, and then to say: "Will you not admit these and thousands with them to the right of voting?" If he will bring me those selected individuals who write so gracefully, I shall be proud to assist in passing a special act, even to introduce on their behalf the educational franchise which gentlemen opposite refused to listen to. [Cheers and laughter.] The right honorable gentleman, the chancellor, no doubt believes that the opinion which he advocated to-day would, if adopted, be for the benefit of the country; but I ask the honorable member who introduced this measure, does he, or does anybody, believe that the government of her Majesty are about to take up his cause, or that if the bill be read a second time they will give him their support cordially and sincerely, after the fate which has overtaken the proposition of the honorable member for Surrey, (Mr. Locke King,) who sits behind him? No, they will both share the same fate; and a reform bill will be reserved, in the words of the noble viscount, till there is a government "strong enough to take up a measure of the kind, and sincere enough to prosecute it to a satisfactory conclusion." The right honorable gentleman called on this house in a marked manner to say in what consist the security and strength of states. Those who assert and advocate the absolute necessity for a great increase of democratic power in the state will allow me to refer not merely to what is passing across the Atlantic at the present hour, but to the whole page of history. According as you have strengthened democratic influence until it became overwhelming liberty in every state has fallen. Look at the patrician senate when supplanted by democracy; it fell beneath the military power. Look at the brilliant commonwealths of Italy. They had their day, and, with one striking exception, they fell:

"A thousand years scarce serve to form a state,
An hour may lay it in the dust, and when
Can man its shattered splendors renovate?"

A step in the wrong direction may be fatal to the greatness of a state. I therefore ask the house to refuse its assent to an experiment the consequences of which cannot be foreseen, and to preserve to posterity the incalculable blessings which gentlemen bringing forward this motion admit that the people ought to possess, and may they long continue to enjoy. [Loud cheers.]

Mr. W. E. FORSTER would not follow the right honorable gentleman into the history of the Primrose Hill meeting, or of those measures for the benefit of the working classes nearly every one of which he and his friends had opposed, [cheers,] but rose to congratulate the honorable member for Leeds on the great advantage to the cause which he advocated that had been gained in the able and moderate speech of the chancellor of the exchequer. [Hear, hear.] The honorable member for Shoreham was surprised that there had been no reform riots on the part of the working men. They had long outgrown ideas of that kind, but the secret of their inactivity lay in the fact that they were puzzled by the conduct of Parliament about the question of reform. [Hear, hear.] They could not bring themselves to believe that promises made on both sides of the house to give them a share in the representation would be violated, and that an opposition, more dangerous because it was a corrupt opposition, existed within the walls of Parliament itself to all proposals for reform. The present debate, therefore, helped on the cause of reform, because in the speech of the honorable member

for Shoreham the opposition boldly disclosed its opinions, and declared it to be better that the working classes of England should not have any share in the representation. (Cheers.)

Mr. CAVE denied that he had made any such statement.

Mr. FORSTER thought the honorable gentleman would entertain a different opinion when he read his speech in the newspapers. ["Oh, oh," and cries of "hear."] But if he would come down to the borough which he had the honor to represent he would undertake that in a meeting exclusively composed of working men all his objections should be courteously listened to and then fully answered. The honorable member had certainly talked about a domestic revolution, and he was bound to explain his meaning.

Mr. CAVE. Perhaps the honorable gentleman will explain what the member for Birmingham said. [Hear.]

Mr. FORSTER said the honorable member for Birmingham was well able to explain his own meaning, and he therefore should not attempt to do so. Without entering further into the speech of the honorable member for Shoreham he would say this—that it showed the objection entertained to the extension of the franchise to the working classes was no longer a question of time but of principle. [Hear, hear, and No, no.] The conservatives were evidently about to return to their old policy of preserving the constitution from encroachments. For his own part he denied that a bill which, in a town like Bradford, would compose less than one-third of the constituency of working men, could fairly be stigmatized as a domestic revolution. The conduct of the government hitherto had been marked by hesitation and indifference on reform questions; but after the speech of the right honorable gentleman it would be difficult for them to continue that policy; and the sooner the country knew where it was, and with whom it was dealing on home questions, the better. [Hear, hear.] If, which he very much doubted, the present constituencies were conservative on all constitutional grounds, let them have a conservative government carried on upon conservative principles by acknowledged conservatives, and not a conservative government carried on by liberal leaders on professedly liberal principles. [Hear, and laughter.] It was possible that members like his honorable friend the member for Salisbury might go over to the other side of the house, [cheers,] and that others who thought they had constituents enough already might not like to increase them. [Laughter.] It was better for them and every one else that they should know exactly how they stood. [Hear, hear.] One result, however, was certain to follow from the speech of the chancellor of the exchequer. Hitherto they had been in the extraordinary position of having some of the strongest supporters of the government sitting on the other side of the house—not men of moderate opinions, whose views were akin to those maintained by the leaders of the liberal party, but strenuous, exclusive conservatives, like the honorable member for Warwickshire, and the honorable member for West Norfolk. The effect of the right honorable gentleman's speech that day no doubt would be to make these conservative supporters forget the speech delivered on a similar occasion by the noble viscount at the head of the government, and withdraw their support in future. The government, no doubt, would be losers to that extent, but the liberal party would gain very greatly. The chancellor of the exchequer had been taunted with holding different views now from what he formerly entertained; but as his views became enlightened and enlarged, [laughter and ironical cheering,] he never retracted from those views. [Cheers from below the gangway.] It might be that the country would first have to pass through a conservative government; but the time was certainly hastening on when it would no longer be open to the reproach of lagging behind all Christian civilized countries in the share of political power which it accorded to its working classes. [Hear, and cries of "Divide."]

Mr. NEWGATE, having been alluded to by the honorable member for Brad-

ford, wished to say that he had been accurately described by the honorable member as a decided conservative. As such he would support any government that served her Majesty truly, to the extent of his opinions; but he would oppose any government, whether calling itself conservative or by any other name, which departed from the great principles of the constitution. [Hear, hear.] These were the conservative principles he professed, and by which he intended to abide. Having voted for the previous question on the bill of the honorable member for East Surrey, he was not going to turn round and vote for the present measure. It was no principle of conservatism that the temporary arrangements by which the representation of the people was ordered should always remain immovable. [Hear, hear.] But by transferring the £10 franchise to the counties they would have swamped the only representatives of the working classes, the 40s. freeholders. The people could not too seriously consider the facts recorded in the parliamentary return No. 410 of the session of 1862, from which it appeared that some 8,000,000 of the population were represented by 338 members, while 11,000,000, being the great majority, were represented by only 159 members. He objected to this measure because it was partial, because it would increase the power of the inhabitants of the cities and boroughs, and because it took no steps to remedy the unfairness in the representation of those residing beyond the limits of boroughs, who had less than half the number of the members assigned to the great towns. [Hear, hear.] He should therefore support the amendment of his honorable friend.

Mr. BASS said it was impossible to conceal that the aspect of this question had very materially changed, both in the house and in the country. It would be very interesting to determine in what proportions the house, the government, the constituencies, and the unenfranchised classes had contributed to place the question of parliamentary reform in its present unpromising aspect. It was, however, necessary for the house to show that they had not misled the people, and had not made promises which honorable members repudiated as soon as they got back to the house. All the supporters of Lord Derby who voted for the reform bill brought in by his government had clearly acknowledged the necessity of parliamentary reform. So also had honorable members on the ministerial benches. There were many honorable members on the opposition side who had on the hustings declared themselves favorable to an extension of the borough franchise, yet they had absented themselves from the divisions in favor of this bill, or had come down to vote against it. The honorable member, amid the gradually increasing impatience of the house, which at times rendered him inaudible, proceeded to quote the opinions of opposition members in support of his allegation. He was, he said, ready to go through the liberal side, if the house wished it. [Loud cries of "Divide, divide."] The house did not, however, need to be reminded of the change of opinion on the ministerial benches, although honorable members had not given the reasons for it. There were many cases in which the present measure would increase the constituency. In the borough he represented a £6 franchise would more than double the number of electors. But in many other places the increase would not be very great, and in no case, as he believed, would the extension of the franchise be attended with danger. ["Divide."]

Lord FERMOY and Mr. S. BEAUMONT rose together, and there were loud calls for the latter, but he gave way, and

Lord FERMOY, amid much interruption and cries of "Divide," proceeded to defend the bill as a moderate measure of reform.

Mr. S. BEAUMONT said he had listened with great admiration, but not without great surprise, to the eloquent speech of the chancellor of the exchequer, coming as it did from the most prominent member of a government who, more than any other, had damaged this question of parliamentary reform, who upon this very question had struck their flag, abandoned their party, and handed over the measure to the statistical championship of the honorable member for

Leeds. [Loud cheers and laughter.] He would not enter into a discussion of the bill, because the honorable member for Shoreham (Mr. Cave) had said that he did not disagree with its principle, but did not think it opportune. He (Mr. Beaumont) must say that in this matter the excellence of the bill and its opportuneness so hung together that the best thing they could do who did not think the moment opportune was to vote against the second reading. [Cheers.] He saw no special reasons for changing his opinion about the opportuneness of the measure, because, though he had heard a great deal, upon that and other occasions, of an "ugly rush," the only "ugly rush" that he knew of was the "ugly rush" of a certain party when in opposition to the pigeon-holes of Whitehall and Downing street. [Loud cheers.] It was because he did not think the present moment opportune that he would record his vote against the motion. [Cheers.]

Lord H. SCOTT felt called upon to protest against the assumption laid down by the other side, that that (the opposition) side was against reform. It was a mere election manoeuvre to say so. There were honorable gentlemen on that side who had always said that they were not opposed to a measure of parliamentary reform, but they disagreed with honorable members opposite as to the points of detail in the bill, the general results of which would go far beyond the expectations of its supporters. [Hear, hear.]

Mr. WATKIN, who spoke amidst great interruption, supported the second reading of the bill, on the ground that there were numbers of the working men throughout the country who were qualified to exercise the franchise, and yet were without the power to do so.

Mr. GREENALL, as one of those to whom the honorable member for Derby had referred, declared that any promise he had ever made to his constituents he was ready honorably to perform. [Hear, hear.] He had said that he would support any well-considered measure of reform, and that promise he would keep. He was as favorable as any honorable gentleman in that house to a fair, a liberal, and a just extension of the suffrage, (cheers,) but he should vote most unhesitatingly against the bill of the honorable member for Leeds, (cheers and laughter,) because he regarded it as unfair, unequal, and calculated in its action to do more harm than good to the cause of reform.

Sir J. ELPHINSTONE, who was met with loud cries of "Divide," begged to assure the honorable member for Derby that he for one was quite ready to go on the hustings, and when he got there he would most assuredly tell his constituents where reform originated in that house, and how it was defeated; and in doing so he would not shrink from naming those who had reduced the question of reform to an organized hypocrisy. [Hear, hear.]

The house then divided, when the numbers were:

Ayes	216
Noes	272

Majority	56
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The question was therefore not put. The announcement of the numbers was received with cheers from the opposition.

Mr. Seward to Mr. Adams.

[Same to Mr. Dayton, No. 350.]

No. 946.]

DEPARTMENT OF STATE,

Washington, May 16, 1864.

SIR: The official information received from the different commands, when carefully digested, is even more satisfactory than the somewhat confused accounts which you will find in the first despatches.

We receive advices of laborious and heroic efforts made by our land and naval commanders in Louisiana to save their forces and material in that State and in Arkansas, and to restore the prestige of the government in the region west of the Mississippi. Major General Canby has been very vigorous and successful in sending re-enforcements to Generals Banks and Steele from the shores of the Mississippi, and it is presumed that the new commander will very soon reach the field in person. It is not true, as represented in rebel journals, that General Steele surrendered his army at Camden to Richard Taylor on the 27th ultimo. General Steele's aid has arrived here, having left the general with his command safe at Little Rock on his return from Camden.

Major General Sherman seems to have inaugurated his new campaign in Georgia with his usual sagacity and diligence. He has brought General Schofield down from Knoxville through Cleveland, and upon the flank of the enemy at Dalton, while Sherman moved against him in front from Ringgold, over Tunnell Hill, and General McPherson struck at Resaca at the enemy's communications with his base at Atlanta. Thus assailed, Johnson abandoned Dalton, and was then pressed in flank and rear by Sherman and Schofield until Saturday the 14th, when a severe engagement took place in front of Resaca. General Sherman took eight guns and one thousand prisoners, and Johnson retreated southward from Resaca. Sherman is pressing upon him, and expecting confidently to take Rome.

The three days' sanguinary battles between the army of the Potomac and the insurgent forces in the old Wilderness closed on Friday, the 6th instant. During the night of that day Lee left his position and retired southward towards Spotsylvania court-house. General Grant advanced. He brought the enemy again into battle on Sunday morning, the 8th, drove him out of his intrenchments, and forced him across the Po. Here the enemy again threw up fortifications. On Monday, General Grant, against very obstinate resistance, and not without considerable loss, marched across the Po and formed in line of battle. On Tuesday, the 10th, the rebels accepted cheerfully the challenge, and made several vigorous assaults upon our positions, but they were repelled. Our lines were maintained and portions of the enemy's lines of defence were wrested from him. It seems to myself like exaggeration when I find that in describing conflict after conflict in this energetic campaign, I am required always to say of the last one that it was the severest battle of the war. Six thousand of our men were placed *hors de combat* in this battle of the 10th of May. Wednesday, the 11th, was spent in skirmishing. Thursday, the 12th, brought a new and severe conflict, with results encouraging to the Union arms. A division, a brigade, and a regiment were captured, with forty guns. At eight o'clock on the night of that day General Grant sent a despatch to the War Department, in which he modestly expressed himself, concerning the state of the campaign, in these words: "We have now ended the eighth day of very heavy fighting. The result to this time is much in our favor. Our losses have been heavy, as well as those of the enemy. I think the loss of the enemy must be greater. We have taken over five thousand prisoners, while he has taken from us but few, except stragglers."

The battle was continued on Friday, the 13th, with decided advantage to the Union army. On the morning of the 14th it was ascertained that Lee had again retired. Yesterday morning, the 16th, General Grant reports from the army that there had been continual rains for five days; roads had become impassable, even so that ambulances can no longer make their way with their wounded from the battle-fields to the hospitals at Fredericksburg. General Grant waits for twenty-four hours of dry weather, when he will advance. The enemy last night were in position across the direct road which leads from Fredericksburg to Richmond, and our army is confronting them. The lieutenant general writes cheerfully, hopefully, even to the tone of confidence. We have

now nine thousand prisoners in our hands, captured in these battles, including four hundred officers.

Major General Butler has been very active and successful in intercepting Lee's expected re-enforcements below Richmond. He has destroyed the insurgent railroad communications between Weldon and Richmond, and between Petersburg and Richmond; and at the date of our last advices had threatened Fort Darling, which protects the river approach to that place against our iron-clads. They have made five successive sorties, sometimes at night, other times by day, and have been as often repulsed. Their iron-clads have come down from Richmond and been driven back by our fleet. General Butler writes in fine spirits. •

During the last week Major General Sheridan made an expedition with 13,000 cavalry in the interior of Virginia, surrounded the insurgent army, destroyed the insurgent railroad communications and telegraph communications through the Virginia, Central, and Orange and Alexandria railroads, with an immense quantity of military stores, and finally crossing the peninsula, joined Major General Butler below Richmond on the James river on Saturday last.

General Averill, sent by Major General Sigel through the valley and across the mountains, has destroyed the rebel communication by the Virginia and Tennessee railroad at New creek, and thus Lee is supposed to be cut off from supplies and re-enforcements by railroad, except on the circuitous route of the railroad passing from Richmond through Danville to Raleigh.

On the other hand, we are rapidly sending forward no inconsiderable re-enforcements to General Grant, and are thus supplying the dreadful waste which the army of the Potomac has suffered in conflicts which they have waged, not only with the greatest heroism, but also with compensating advantage to the national cause. The re-enforcements already sent amount to 30,000 men.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

C. F. ADAMS, Esq., &c., &c., &c.

[Same to other ministers in Europe.]



Mr. Seward to Mr. Adams.

No. 947.]

DEPARTMENT OF STATE.

Washington, May 16, 1864.

SIR: Referring to your despatch of the 14th of April last, relative to an alleged violation of the enlistment act of Great Britain by Captain Winslow, of the United States steamer Kearsarge, at Queenstown, Ireland, in November last, I have to state in reply, that a copy of the despatch and of its accompaniments was communicated to the Secretary of the Navy, to which Mr. Welles replied that it was hoped and believed that the explanations of Captain Winslow and of Lieutenant Commander Thornton, the executive officer of the Kearsarge, would have been satisfactory to her Britannic Majesty's government; disclaiming as they do all intention of violating the enlistment act referred to, and avowing that every precaution had been taken by them to prevent any one being carried off in the Kearsarge. That as they have not been satisfactory, the Navy Department is not indisposed to have the matter thoroughly investigated, in order that it may be brought out in its true light. That such an investigation cannot be had, however, whilst the Kearsarge is absent from the United States; that it would be detrimental to the interests of the United States now to recall her from the European coast, where she had been sent on special and important service. That the Navy Department will order the vessel home when it can be conveni-

ently done, and if it should then be the wish of the British government that an investigation should take place, a court shall be ordered to inquire into the circumstances of the case, and should it appear that any officer connected with the vessel had been guilty of knowingly and intentionally violating the municipal laws of Great Britain, or conniving in a scheme to enlist persons at Queenstown, for service on board the Kearsarge, adequate punishment shall be meted to the guilty parties.

I am, sir, your obedient servant,

C. F. ADAMS, Esq., &c., &c., &c.

WILLIAM H. SEWARD.

Mr. Seward to Mr. Adams.

OFFICE U. S. MILITARY TELEGRAPH,
War Department, Washington, D. C., May 18, 1864.

Orders have been given for the arrest and punishment of the fabricators and publishers of the spurious proclamation.

WILLIAM H. SEWARD,
Secretary of State.

CHARLES FRANCIS ADAMS, Esq.,
U. S. Minister Plenipotentiary, London, England.

[Copy to Hon. William L. Dayton, U. S. minister plenipotentiary, Paris.]

Mr. Seward to Mr. Adams.

No. 949.]

DEPARTMENT OF STATE.
Washington, May 18, 1864.

SIR: The security, welfare and independence of the South American nations have heretofore as deeply interested Great Britain as they have the United States. Great Britain is equally with the United States a friend of Spain. I cannot doubt, therefore, that her Majesty's government will agree with this government in regarding with deep concern and apprehension the apparently imminent danger of a war between Spain and Peru. The latter power has invoked the good offices of the United States, and I have no doubt that she has, at the same time, appealed to Great Britain. You will seek an occasion to converse with Earl Russell on the subject, and use your good offices, if they shall be accepted, to induce her Majesty's government to exercise its influence with the two countries in favor of conciliation upon terms consistent with justice and honor. To enable you to act understandingly upon the subject, I give you herewith a copy of communications I have addressed to Mr. Robinson, our minister at Lima, and to Mr. Koerner, our representative at Madrid.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES F. ADAMS, Esq., &c., &c., &c.

[The enclosures are published elsewhere.]



